

IN THE SUPREME COURT OF THE STATE OF OREGON

In Re: Complaint as to the Conduct of

ANDREW LONG,
Bar No. 033808
Respondent.

Nos. S066327 & S066649

OSB Case Nos. 17-89, 17-90, 17-109, 18-08, & 18-43
&
OSB Case Nos. 17-79, 17-86, 17-87, 17-88, 18-09, 18-31, 18-32, 18-33, 18-64, 18-
75, 18-76, 18-77, 18-86, 18-87, 18-88, 18-129 & 18-170

**RESPONDENT’S MOTION TO CONSOLIDATE
&
MOTION FOR REINSTATEMENT
&
MOTION TO DISMISS ALL DISCIPLINARY MATTERS**

Date of this Court’s Order of Suspension: December 20, 2017
Case No. S066327: Opinion, October 24, 2018; Brief Submitted June 7, 2019
Re: Case No. S066649: Trial Scheduled to Begin June 12, 2019

Pro se Respondent:

E. Andrew Long
620 SW Grant St.
Portland, OR 97201
andrewlongpdx@gmail.com
503-479-8546
andrewlongpdx@gmail.com
OSB No. 033808

For the Oregon State Bar:

Dawn Evans, Discp Cnsl &
Susan R. Cournoyer, Asst Discp Cnsl
Office of Disciplinary Counsel
16037 SW Upper Boones Ferry Rd.
Tigard, OR 97281
devans@osbar.org
scournoyer@osbar.org

In this esemplastic memorandum, Respondent Andrew Long respectfully presents three motions to the Oregon Supreme Court regarding the two purported disciplinary matters brought against him by the Oregon State Bar (OSB). The unusual posture responds to systemic abuse by OSB's Office of Disciplinary Counsel (ODC) of the disciplinary authority this Court bestows upon it.

A motion to consolidate seeks to combine the second purported disciplinary matter against Long with a matter pending before this Court, and requests immediate review of the prosecution as a whole. ODC's attorneys were favoring malevolent attorneys (such as Lori Deveny) when they employed the attorney disciplinary system to maliciously attack Long, apparently at the urging of private parties. A deceitful BR-3.1 petition produced Long's immediate suspension on December 20, 2017 (Case No. N007129), from which ODC's attorneys alchemized client injuries caused by suspension into complaints against Long.

A motion for immediate reinstatement demonstrates that Long was never dangerous, as ODC knew. Comparison to attorney Erik Graeff makes the case.

Finally, Long requests complete dismissal of all pending disciplinary matters against him, synthesizing research into four cases contemporaneous with his (including Lisa Klemp and Megan Perry) to demonstrate a culture of misconduct by which ODC has wrought extreme damage on all interests protected by the attorney disciplinary system, thus corroding the jurisdiction of this Court.

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Note re: ORAP compliance: to insure compliance with ORAP 7.05(1)(d), Respondent inquired of Dawn Evans and Susan Cournoyer of their position and desire to respond to this and the related emergency motion. Submission of these motions was then delayed significantly by preparation of a brief in one case and trial preparation in the other, but opposing counsels' responses appear to remain valid: opposing counsel opposes all of the motions in this document and intends to respond.

I. INTRODUCTION: ABUSIVE BEGINNINGS

Before ODC's attorneys fixated on disbaring him, Andrew Long's professional reputation was exceptional. He was known for a decade of teaching and mentoring students, including law school faculty appointments in three states and, more recently, work with the Classroom Law Project. He also acquired a strong reputation through extensive service work, including work as a vice chair of three ABA committees, participation with the IUCN expert group on energy and climate change, and building a nationally relevant cross-disciplinary conference. Most significant, perhaps, is his prolific legal scholarship, which produced more than 20 works and counting (including work invited since suspension), invited presentations throughout North America and Europe (including Yale Law School and other top universities), and written reports for organizations such as the United Nations Development Program. Long's vulnerability to the attack that has plagued him for the last 18 months developed when he built a solo practice to provide reduced-cost legal services to Portlanders facing abusive situations or mistreatment by government.

That focus for Long's solo practice grew directly from his experience surviving and ultimately escaping three years of extreme violence by an abusive spouse (Amy Smith, f/k/a Amy Long). In 2014, as they separated, Smith made a

series of false allegations to exploit the protections for abuse victims in Florida as a means to separate Long from his children.¹ Long defeated those allegations in 2014 and 2015 at great expense.²

Whatever the subjective motivation of ODC's attorneys, their disciplinary prosecution of Long grew directly out of Smith's strategy, developed with her Florida attorney (Kim Banister) in the summer of 2017, to encourage false allegations against Long in Oregon so that she would prevail in a Florida custody matter without being held accountable for her abuse. The strategy worked, above all, because of ODC's attack on Long.³

The original accusers in the disciplinary proceedings against Long (and in several related matters) were the first two Oregonians contacted by Smith – Laura

¹ The dynamics of the relevant phenomenon are effectively discussed in a burgeoning recent social science literature. *See e.g.* Joshua L. Berger *et al.*, *The Mental Health of Male Victims and Their Children Affected by Legal and Administrative Partner Aggression*, 41 AGGRESSIVE BEHAVIOR 1 (2015). One of the coauthors of the cited study, Dr. Emily Douglas (preeminent in the field), was scheduled as an expert witness for Long during the August 2018 Bar trial.

² Testimony by a Florida Department of Children and Families (FDCF) official demonstrated in 2015 that Long posed no risk, but that Smith was considered “high risk” for future child abuse. *See* Record for Case No. S066327 (“R.”) at 3228-29.

³ Whatever else may come of these motions or these cases, Long hopes the Court will insure that the Oregon State Bar comes to address such issues far better. Despite OAAP support and an OLAF grant, Long could not arrange low cost trauma counseling. The need was ignored by SLAC, then ridiculed by ODC attorneys determined to eliminate Long's livelihood and destroy his reputation.

Roach and Morgana Alderman.⁴ Both women affirmed in civil testimony that they spoke with Smith, then sought to advance her position against Long in the Florida custody case. R. 1224 (Roach) and 1427 (Alderman); *see also* R-6710-11.

ODC's cases against Long, especially Case Nos. N007129 & S066327, pick up where Roach and Alderman left off in attacking Long. The explicit reason that ODC sought to pursue Long's immediate suspension in October 2017 was his communication with Roach and Alderman. *See* Exhibit ("Ex.") 1, submitted herewith.

Quite literally, ODC jumped into a domestic dispute on the side of the out-of-state party with a history of violence, child abuse, and mental instability. Long was caught completely by surprise because, frankly, he expected far more compassion and intelligence from the OSB.

Need for Present Motions: Bad Faith and Unconstitutional Discipline

The key point of this introduction is that ODC did not actually investigate anything. Instead, under suspicious circumstances and for reasons unknown,⁵ ODC

⁴ Alderman no longer resides in Oregon. She is thought to be attending law school in her native Florida..

⁵ For example, Long received two emails from his then-landlord, TMT Development, threatening to "involve" and "notify" the OSB if he did not immediately vacate his apartment on demand, and then his first encounters with the ODC attorneys relevant to the present matter occurred at and the day after the an eviction trial commenced by TMT Development. Ex. 2.

suddenly set its sights on Long with extreme and unwavering hostility.

ODC attorneys have explicitly stated there will be no compromise; they are intent on disbaring him.⁶ Ex. 3 (email by Chourey responding to Long's settlement inquiry, "candidly speaking, I do not believe that the SPRB would be receptive to anything that did not involve the resignation of your license in Oregon. You can accomplish this by submitting a Form B resignation.").

ODC's attorneys have conducted this entire case through misconduct, the condescending certainty of the corrupt, and contemptuous disrespect, targeting Long's personal life and his professional reputation as much as his license. To achieve their apparent goal of disbaring an ethical attorney, ODC attorneys employed a fairly simple (albeit stunningly unethical) strategy. Chourey and Cournoyer audaciously employed misrepresentations and blatant perjury in the November 2017 BR-3.1 petition to obtain Long's immediate suspension, then they combined the predictable damage to Long's active clients with the promise of payment from the Client Security Fund (CSF) to secure Bar complaints thought to be sufficient to convince this Court to disbar Long. That is, ODC intentionally fabricated most claims in Case No. S066649 from the harm suspension caused.

ODC's conduct of these cases is no less than deplorable. It is abhorrent in its

⁶ The first direct statement of ODC's intent to disbar Long came during Bevacqua-Lynott's closing argument for the Bar on February 13, 2018. *See* R. 1145 ("[t]he bar intends to . . . see what we can do about getting him disbarred").

manipulative use of BR-3.1 proceedings intended to protect the public, anathema to the ideals of attorney discipline, and corrosive of both this Court's authority over attorney discipline and the basis for the public's trust in the profession.

Even more disturbing, Long's situation fits within a broader pattern. Upon reviewing four cases that ODC handled contemporaneously with Long's, the strength of ODC actions in each case appear exactly *inverse* to the danger posed by the attorney involved. In this, ODC's most aggressive case, Long poses no risk.

The conduct of ODC's attorneys in the proceedings against Long violate Article I, section 20 of the Oregon Constitution and the Equal Protection Clause of the Fourteenth Amendment in that they constitute impermissible selective prosecution against a class of one. In essence, there is no possible rational basis for the ODC's actions in these cases, and they are extremely harsh when viewed against other contemporaneous cases.

The actions of ODC's attorneys also violate the Due Process Clause and the similar protections of Oregon Constitution, Article 1, section 10. At least three criminal law theories provided analogical bases for ruling in Long's favor under the Due Process Clause – outrageous government conduct, the Court's supervisory powers, and vindictive prosecution – any of which can also provide the core rationale for applying Article I, section 10.

Roadmap of Memorandum: Three Specific Motions

This memorandum presents three related motions in ascending order of the action they request. The primary goals of the motions are to relieve Long from the ongoing harm imposed upon him and to protect him from future wrongful prosecution and other injury at the hands of ODC's hostile attorneys. Secondly, the memorandum may serve to alert the Court to an apparent pattern of misconduct by ODC's attorneys with broad implications that warrants immediate attention.

First, Long moves the Court to consolidate the matter currently pending before the Court (Case No. S066327) and the matter currently scheduled for trial beginning June 12, 2019 (Case No. S066649) to enable a holistic review. Second, Long moves the Court for his immediate reinstatement to the practice of law in Oregon, because the suspension is plainly unjustified and, thus, unconstitutional. Third, Long moves for the complete dismissal of all pending matters commenced by the ODC against him because he has been singled out for extreme misconduct by ODC's attorneys, which has indelibly tainted the proceedings. The argument for dismissal relies primarily on the Due Process Clause, the Equal Protection Clause, Oregon Constitution (Article I, sections 10 and 20), and this Court's inherent power over attorney discipline.

Attendant to the Court's powers in this *sui generis* area of law is the responsibility and *duty* of this Court to insure the proper regulation of attorneys for

the safety and welfare of the people. ODC has abused the power leant by this Court through a pattern of under- and over-prosecution. Both types of cases fundamentally damage all interests served by the attorney disciplinary system. As a direct victim of over-prosecution, Long seeks relief and protection from this Court.

II. MOTION TO CONSOLIDATE CASES

Long hereby moves the Court to consolidate Case Nos. S066327 and S066649 prior to reviewing either case. Through consolidation, the evolution of events as they actually occurred can be grasped and examined as an organic whole without any loss of ability to focus on specific questions or events.

The inverse is not also true, however. Apparently by design, the cases are divided to inhibit the Court's ability to see how the façade of a disciplinary case was manufactured by ODC's attorneys to disbar Long.

ODC's request for custodianship followed within 48 hours of this Court granting its BR-3.1 petition. Within two weeks, Cournoyer sent a letter inviting clients to contact her for their files, and asked them to contact her if they felt Long had their money or property. Ex. 4. Presumably, she then suggested to the (predictably) damaged clients that they might be eligible for thousands of dollars in CSF money, *but only if Long was dishonest*.

Suddenly, formerly satisfied clients claimed that Long injured them. In fact, it was ODC's attorneys who injured Long's clients by advancing a misleading BR-

3.1 petition and obtaining an unwarranted immediate suspension against Long.

The ODC's attorneys' vocal calls to purportedly protect the public from Long in November 2017 BR-3.1 are revealed as ignoble if one contrasts their blitzkrieg pace to disable Long during the Christmas holidays with their "see no evil" lackadaisical approach to the former attorney recently arrested by the FBI on federal charges of embezzlement, Lori Deveny. *See* Maxine Bernstein, *Former Oregon lawyer accused of defrauding clients faces 24-count federal indictment*, THE OREGONIAN (5/14/19); *see also* Tom Hallman, Jr., *Former Oregon Attorney Accused of Stealing Money Held in Trust for Clients*, OREGONIAN (5/25/19) (reporting Deveny's subsequent arraignment in state court on 92 counts).

Somehow, despite having at least the basic evidence of theft since November 2017, the ODC allowed Deveny to retain access to her trust account and control her files for well over a year and, so far as one can tell, perhaps until the FBI got involved last month. *See* Ex. 5.

It is not clear how, if they were acting in good faith, ODC failed to either notice or protect against the conduct that produced 116 counts of criminal activity despite the Bar complaints, stipulated discipline, and eventual custodianship over Deveny's practice that ODC's attorneys obtained for the Bar. It is equally unclear why ODC's attorneys never thought to take possession of her files (until being effectively ordered to do so by a U.S. District Court judge) in order to preserve all

available evidence for law enforcement.

The contrast is striking between the ODC's attorneys' clear favoritism for Deveny, past president of the Oregon Women Lawyers organization and 30-year OSB member, and their blatant animosity toward Long, who had returned to Oregon after a decade of working in academia, earning an LL.M. at NYU Law, and clerking with the New York Court of Appeals. Yet, Deveny appears to have stolen over \$1 million from injured clients over a decade, and there is essentially no reliable evidence against Long.

ODC's attorneys are actively on the side of injustice in both cases. As discussed later in this memorandum, looking at several of the cases ODC was handling in the same period suggests a sweeping range of misconduct emanating from that office. While this memorandum focuses only on ODC's prosecution of Long, the pattern of misconduct by ODC's attorneys that becomes clear on the periphery helps to demonstrate that Long was targeted with false allegations. The reasons and degree of intentionality are beyond the scope of this memorandum, but a look at the broader picture makes clear that the prosecutions must be dismissed. Long did not commit the misconduct alleged against him.

To see that broader picture, the first step is viewing the cases against Long as a single prosecutorial effort by ODC. That requires consolidation.

A. THE PREDICTABLE CHAOS OF IMMEDIATE SUSPENSION

About 15 years before ODC suddenly proclaimed that Long was dangerous, this Court commented on the dangers of an *immediate* suspension of an attorney. In the context of a suspension for failure to pay PLF dues, the Court recognized that a brief waiting period between the suspension and its effective date can:

ensure that the suspension process is orderly and that the Bar does not overstep its authority. That policy reflects a concern for the chaos that might result from unexpected and precipitous suspensions, not just for the suspended lawyer but for courts, opposing counsel, and, particularly, for clients. Unnoticed, eleventh hour suspensions create a likelihood that clients will be left without counsel at critical moments in pending cases.

In re Leisure, 336 Or. 244, 82 P.3d 144, 148-49 (2003); *see also* ABA, *Lawyer Regulation for A New Century* (2018), Recommendation 19 – Comment (“The imposition of disbarment or suspension on a lawyer can prejudice those clients whose legal affairs require immediate attention. A reasonable time period between the order date and the effective date permits the lawyer to perform legal services necessary to prepare the clients' files for transfer to other counsel, move to reset court dates, and take other steps to wind up the lawyer's practice.”).

In Long’s case, ODC’s attorneys *created* the “chaos” by unnecessarily demanding Long’s immediate suspension, and then they *exploited* the injuries induced in his clients to develop a passable case against him. These attorneys clearly “overstepped” their authority no later than the numerous false and

misleading statements by Cournoyer and Chourey that appear in the November 2017 BR-3.1 petition, which succeeded in convincing this Court to order immediate suspension and, thereby, destroyed Long's practice.⁷

Long's highly supportive, but mostly lower-income, clients were plainly stunned and injured by the suspension. They probably looked to Cournoyer for guidance when they received her letter just after New Year's Day, 2018. She presumably explained that the CSF pays out claims to clients who lost money due to a dishonest lawyer. An astute attorney at ODC would likely be able to see what a mess Deveny's case would eventually cause and could have some confidence that other CSF claims would not be scrutinized too closely.

When the Bar took custodianship of Long's practice, there was *not one single allegation that Long converted any property of any client* or otherwise engaged in the type of financial misconduct that consistently produces disbarment. None of his clients had ever suggested that Long had unfairly taken their money.

Claims of a financial nature *resulted from ODC's attorneys suggesting that CSF money could be available* to clients who were damaged by the sudden,

⁷ Long detailed many such violations by three ODC attorneys in Bar complaints that he filed in November 2018. *See* Ex. 6, 7, and 8. Despite containing detailed allegations of facts that constitute dozens of RPC violations per attorney, and the indisputable evidence on the face of the record in several cases to support them, all such complaints were quickly dismissed and the dismissal was then upheld by the SPRB. The initial denial letter, however, almost seems to ask this Court for guidance. *See* Ex. 9.

unexpected suspension. The few claims of conversion that now exist arose after clients interacted with ODC, then alleged conversion and filed a CSF claim.

In truth, Long was particularly generous with his clients and, as he showed in February 2018, his clients widely regarded him as very flexible and understanding with regard to payment for his time. Several of his clients explained that he helped them far beyond any financial gain for himself.

For example, in response to Long's closing question, "is there anything else you want to tell the Court about my representation of you?" one of his clients testified in February 2018:

"mostly just, like, how much you care about my case. I don't think I could have found anybody who would have worked for so little money as hard as you have, and I'm not going to be able to find somebody else."

R. 548. Two of the other three clients who testified on Long's behalf also highlighted his flexible and understanding approach to finances. R. 348-49 and 462.⁸

The audacity and callousness of ODC's attorneys' actions, especially toward clients, makes the truth of this matter difficult to accept. It becomes somewhat

⁸ Long asked a handful of his then-current clients to provide off-the-cuff comments regarding his lawyering and client interaction for him to include with his October 12, 2017 letter to the SPRB. Every client that Long asked promptly provided a statement with sufficiently positive reviews that Long included all statements as attachments to the SPRB, several of which he then included exhibits for Case No. N007129, and which now appear in the record of S066327. *See* R. 207-13 and 3030.

more digestible, if no less revolting, when one understands what these attorneys were doing in the very different case of Lori Deveny at the exact same time.

B. INDIFFERENCE TO CLIENTS: FAVORING LORI DEVENY & HOSTILITY TO LONG

Cournoyer and Chourey stormed Long's office with half a dozen armed police officers three days before Christmas, physically taking 35 of Long's 36 open files.⁹ Less than two weeks later, Cournoyer sent out letters to all 35 clients whose files had been seized, which stated: "If you believe that you have funds or other property in Long's possession, please contact me directly at the phone number or email address listed below." *See* Ex. 4.

That rapid action would be commendable if it aimed to protect the public. Instead, it appears aimed at encouraging clients to file Bar complaints and CSF claims against Long while their shock over his suspension was fresh.

Before exploring that possibility further, however, it is useful to consider the ODC attorneys' conduct of a contemporaneous case in which the attorney actually did inflict egregious injuries on her clients. They did not rush.

During the same timeframe and in the same city the same attorneys with ODC took a much slower approach to the outrageous misconduct of then-attorney Lori Deveny. It is not clear whether Deveny's connections, such as those arising

⁹ The client who owned the 36th file was in the office with Long on December 22, 2017 to act as a witness to the ostentatious display of the Bar's authority.

from her active membership in OWLS or her long history with OSB, or other factors led OSB to provide such favorable treatment to her, but it is clear that ODC attorneys did not treat the protection of her clients as a priority. Deveny would ultimately *retain her client files and maintain control of her trust account* well-past her February 2018 suspension by this Court, her April 2018 stipulated BR-3.1 suspension, the May 24, 2018 signing of her Form B resignation, and even this Court's July 27, 2018 approval of her Form B resignation.

It was not even clear whether Deveny had *ever* provided any files to the OSB when, on May 13, 2019, the *Oregonian* reported that a U.S. District Court ordered her to provide them to OSB in connection with the federal criminal proceedings initiated against her. *See Bernstein, supra*. It remains unclear when or whether a letter was sent to Deveny's clients, but the letter referenced in the January 2019 *Willamette Week* article about Deveny's thefts (provided undated and unaddressed) stated, "if you do not respond to this letter, the Bar will destroy your file on June 1, 2019." *See Anna Del Savio, For Decades, Clients Trusted a Portland Lawyer to Get Compensation for Their Injuries. It Turns Out She Kept Much of Their Money*, WILLAMETTE WEEK (Jan. 16, 2019) (reporting that ODC "is sending letters" to Deveny's clients); *see also* Ex. 10 (undated letter signed by Amber Hollister apparently provided by OSB to media as the letter sent to

Deveny's clients).¹⁰ Presumably such files contain information that is now known to be of interest to the FBI and federal prosecutors, even if not previously deemed worth preserving by ODC. The tone of the letter to Long's clients, however, is strikingly different. *See* Ex. 4.

On August 7, 2018, the individual named to receive Deveny's files, attorney Jodie Phillips Polich, notified Bevacqua-Lynott that she could no longer serve that role. *See* Ex. 11. More than two months later, in support of a custodianship petition, Polich attested, "From and after May 24, 2018, I have not received any client files or related documents from Ms. Deveny." *Id.*

On October 23, 2018 – nearly three months *after* this Court accepted Deveny's Form B resignation – attorney Susan Alterman, serving as a private attorney retained by the OSB, petitioned the Multnomah County Circuit Court for custodianship of Deveny's practice. The petition states that Deveny was *still in possession of her client files* and, "there is no one responsible for Deveny's client files. *No one is able to adequately protect the interests of Deveny's clients.*" Ex. __ at 3 (emphasis added).

The petition was promptly granted, empowering OSB to seize files,

¹⁰ However, it appears that some clients of Deveny continued to report having *never* received a letter from OSB. *See* Stephanie Volin, *Lori Deveny's Biggest Bluff and why the Oregon State Bar folded*, (May 5, 2019), available at <https://medium.com/@stephanievolin/lori-devenys-biggest-bluff-2aebbaf774b3> ("one of Deveny's alleged victims told me that he did not receive [the] letter").

withdraw funds, and the like. For unknown reasons, based on all publicly available information, it seems that the ODC *still did not act* in any significant way.

Comparing the order granting custodianship of Long's practice (Multnomah County Case No. 17CV55600) with the order granting custodianship of Deveny's practice (Multnomah County Case No.18CV48680) reveals some striking differences. The degree of urgency expressed in the orders, for example, is noteworthy. Also, despite clear evidence that Deveny stole large amounts of money from multiple clients at the time it was signed, the order granting custodianship to her practice grants far more flexibility to ODC to be lenient than the one granting custodianship to Long's practice, against whom there were zero allegations of conversion.

The order involving Long's practice directs that financial institutions "holding funds in an IOLTA lawyer trust account of Andrew Long *shall release the funds* to the Oregon State Bar upon presentment of a copy of this order" (emphasis added). Handwritten on the original (December 22, 2017) order, was the following term that ODC specifically requested be added during the December 22, 2017 *ex parte* proceeding (at which Long was present): "Access shall be without any obstruction by Mr. Long and the Oregon State Bar may be assisted by the

Multnomah County Sheriff's Deputies.”¹¹ Ex. 12.

The order pertaining to Deveny's practice, in contrast, states that service of the order upon a financial institution, “shall immediately operate . . . to make the Oregon State Bar an authorized signer on any professional or trust account maintained by Deveny.” Ex. 14. It states that “*If necessary*, the Oregon State Bar shall determine the ownership of the funds in the lawyer trust account and shall distribute the funds as directed by the interested client” (emphasis added).

There is a difference in tone and also in the substance (or effect) of the orders. Whereas the need to seize funds from Long is phrased as an emergency matter, the issue with Deveny's funds is characterized as merely adding OSB to the accounts. *Deveny is not even expressly prevented from accessing or directing the distribution of trust funds* by the order, even though this Court had stripped her of OSB membership *three months* before it was signed.

In the Deveny order, the decision whether to seize and distribute funds is left entirely to ODC's discretion. It is not clear why that discretion was created

¹¹ The additional terms were later typewritten into an amended (February 5, 2018) order because Wells Fargo Bank refused to honor the order with handwritten provisions. The six-week delay before obtaining amended order belies the urgency written into the document. Similarly, two meetings that Long had with Cournoyer at this time (one near a Wells Fargo branch, and one at a law firm's offices) not only suggest the requested sheriff's deputies were known to be unnecessary, but also demonstrate that ODC's July 2018 letter favoring claiming to only meet Long in “secure” locations was false and misleading, *See* Ex. 13.

regarding Deveny while the seizure was automatic for Long.¹² Given that it took nearly a year from the first complaints of major theft for ODC to seek custodianship, it is hard to see how such discretion protects Deveny's clients.

A review of recent cases appears to bear out the concern. Deveny was serving as a personal representative – with financial duties, and continuing to access and distribute funds held in trust – at least into December 2018 and apparently performing similar duties into May 2019, which is when the FBI arrested her. *See* Ex. 5 and 15.

Further, while Cournoyer sent letters to Long's clients two weeks after Long's sudden suspension (and those two weeks included the Christmas holidays), media reports suggest that ODC did not even start sending letters to Deveny's clients to notify them of her resignation as an attorney until nearly a year after her suspension at the earliest. Del Savio, *supra*. There was no possible justification for such a lengthy delay in Deveny's case, and no possible justification for the extreme rush in Long's case. ODC got it exactly backwards, at best.

Deveny's clients generally *did not* learn from ODC's attorneys that she had stolen tens or even hundreds of thousands of dollars from their settlement proceeds. Instead, they may have learned of the theft by reading articles in the *Oregonian* and *Willamette Week* published months after Deveny was suspended.

¹² There was approximately \$5,000 in Long's IOLTA, which was placed in the account several days earlier and belonged to a single client.

Yet, Long's client files and IOLTA were deemed such an urgent priority that the ODC attorneys physically invaded his office the very day they received court permission to do so, which was less than 48 hours after this Court granted OSB's petition, and they took sheriff's deputies with them. This is true despite *the complete absence of any allegations of conversion or theft* in Long's case.

Both federal and state law enforcement now allege that Deveny engaged in embezzlement and other theft for nearly a decade. A federal indictment should not have been necessary for the attorneys with ODC to review evidence sent to them by clients in complaints no later than November 2017. Why then did ODC allow Deveny to retain access and control over her trust account and files, despite firm evidence that she had converted large sums of client money?

In the wake of ODC's failures regarding Deveny's thefts, the claims made against Long should not be trusted. This is particularly true because, as Long has consistently maintained, ODC's attorneys never actually investigated him or his practice prior to attacking. *See e.g.* Ex. 16.

C. HERE COMES THE MONEY: ODC ABUSES THE CSF

All CSF claims ever maintained against Long and most of the Bar complaints ever filed against him by anyone, including nearly all of the claims in the case currently pending trial (No. S066649), were initiated in the wake of the

immediate suspension requested by the Bar. The shock of immediate suspension created predictable chaos and Cournoyer's contacts with clients apparently steered them to blame Long.

From there, the promise of thousands of dollars in payments from the CSF was apparently held out to all comers in order to incentivize clients to file Bar complaints against Long.¹³ The claim by Stu Beutler seems to reflect how ODC may have hoped to manufacture reasons to disbar Long.

Beutler filed a CSF claim for return of the \$1,200 he paid Long on their first meeting. In response to the question "when did your loss occur?" on the CSF claim form, Beutler wrote: "when the state [meaning Cournoyer] informed me of his suspension." Ex 17. Beutler stated explicitly that he had made no attempt to collect any of the \$1,200 claim (*i.e.* he did not even contact Long to ask for the money or work product) before he filed his CSF claim at Cournoyer's direction.¹⁴ Thus, it appears Beutler correctly explained that his "loss" occurred because Long could not practice. If Long was not suspended, there would have been no loss to Beutler. *C.f. In re Bertoni*, 363 Or. 614, 426 P.3d 64, 70 (2018) (declining to find

¹³ Individuals who were Long's clients for over a year, and who had regularly expressed satisfaction, stand out as particularly unlikely to have filed CSF claims without encouragement by ODC. Suddenly, they claimed the entire sums they had ever paid Long, which would mean that work such as drafting pleadings, initiating lawsuits, and attending hearings had no value whatsoever.

¹⁴ Payment of the award thus conflicted with CSF Rule 2.1.7, among others, unless Rule 2.6 was invoked.

excessive fee where suspension prevented attorney from filing petition he intended to file).

The actual injuries caused by Long's suspension, however, go far beyond monetary losses. Inflicting immediate suspension on Long directly injured all of his then-active clients because they all suffered a bare minimum of additional time needed to find new counsel, attendant anxiety, and related risk to their legal matters. *In re Schaffner*, 325 Or. 421, 939 P.2d 39, 41 (1997) ("injury to a client in the form of time expended, anxiety, and aggravation constitutes injury").

The actual injuries were more severe for some, such as the mother who lost a contested hearing on a restraining order petition that Long prepared but could not advocate due to the suspension. *See* R. 1001. Two clients testified Long provided strong opening briefs but they struggled to write a *pro se* reply brief due to the suspension. *E.g.* R-6721. Other former clients would have testified on August 23 and 24, 2018 but for Adjudicator's default declaration that blocked all of Long's evidence.

Another clear example of ODC's apparent strategy to exploit the suspension and generate complaints is James Frackowiak. On October 9, 2017, he provided a glowing review of Long's performance, stating: "Andrew Long is a generous and conscientious professional who has helped me navigate several complicated business matters," and that Long "was interested in helping me find justice rather

than just a large windfall of income for himself.” R. 207. Frackowiak filed a CSF claim after the suspension, producing a Bar complaint that ODC appears prepared to prosecute in Case No. S066649.

Seeking an immediate suspension to harvest complaints from the wreckage by promising and promoting improper payments from the CSF is clearly unethical. It may also constitute criminal witness tampering. *See* ORS 162.285(1).¹⁵

D. CONCLUSION: CONSOLIDATION IS A NECESSARY FIRST STEP

The *complete absence of any significant financial claims* at the outset of

¹⁵ The OSB informed Long’s former client, Shannon Williams, that the BOG approved her CSF claim on February 28, 2019. The following day, Disciplinary Counsel Dawn Evans filed a second BR-3.1 petition against Long. Two weeks later, Evans notified Long that she intended to have Williams testify and to perpetuate her testimony for the final trial. *See* Ex. 18. Williams, who never filed a Bar complaint and did not file anything at all concerning Long for six months, may well have received full payment of her \$31,689.29 claim primarily because she agreed to testify that Long stole that amount from her. He plainly did not steal the money and Williams’ credibility may be questionable, as well as that of her friend who referred her to Long (Bryan Wilson, who was briefly a client of Long’s and, Long recently learned, has an extensive history of theft; *see e.g. State v. Wilson*, Multnomah County Case No. 17CR25701 (warrant currently pending)). At most, ODC might present a “he said, she said” case that is insufficient to establish any material point by clear and convincing evidence. *See e.g. In re Fulop*, 297 Or 354, 360, 685 P2d 414 (1984). But ODC’s attorneys knew that many of Long’s financial records were converted or destroyed by Alderman and/or his former book-keeper, Lena Davidson, so he expects they may argue such testimony is sufficient evidence. Davidson, at least, may prove to provide another example of witness tampering by ODC. Shortly after she testified for Long in another matter, ODC made salacious allegations involving her and she seemed to disappear with Long’s financial records. ODC never pursued the allegations, but Long has not been able to retrieve any records from Davidson.

ODC's take-over of Long's practice shows plainly that such claims did not arise organically. This Court will need to make sense of how those claims came about.

Thus, the two cases that ODC crafted against Long should be consolidated *prior to* any review of such cases by this Court. Consolidation will enable Long to argue from, and the Court to identify, the origins of ODC's specific complaints.

Viewed in the context of the whole prosecution, ODC's early actions undoubtedly constitute the "but for" and proximate cause of clients' perception of injury (or actual injury, if it exists). The custodianship was not intended to protect clients from an imaginary threat that no one had even alleged; ODC intended *to manufacture evidence and fabricate reasons to disbar Long*.

The problems regarding Deveny did not originate with an interim suspension, vindictive landlord, or spiteful ex-spouse like the complaints against Long. Instead, Deveny's prosecution came about the way serious cases of attorney misconduct usually begin: with injured clients making complaints.

ODC's actions against Long on December 22, 2017 demonstrated that they know how to utilize ORS 9.710 *et seq.* to safeguard property. There is no legitimate reason why they did *not* protect Deveny's clients.

There is also no legitimate reason such actions should have been taken against Long. The apparent purpose was to generate claims that could be disguised as a separate case and made to appear sufficient for disbarment.

Accordingly, Long moves this Court to consolidate the two cases ODC has created against him. They are better understood as one prosecution effort. To review them separately may violate Long's due process rights to the extent that doing so may prevent him from being able to demonstrate the grounds for his reinstatement and the dismissal of these cases (as argued below). Upon consolidation, the Court should immediately review the entire matter of ODC's prosecution, which will reveal that Long should be immediately reinstated and the matters should be fully dismissed, as argued below.

III. MOTION TO REINSTATE

Long hereby respectfully requests that this Court reinstate him to the practice of law as immediately as he was suspended, without requiring the process stated in the Bar Rules, and with a three-month grace period for PLF and OSB payments. In light of the wrongful nature of the suspension and the indigence caused thereby, such remedy is the minimum that may begin to protect Long's rights so that he may ultimately be made whole or at least recover to a decent standard of living .

Long has been suspended from the practice of law for nearly 18 months. That is 150% of a suspension that this Court recently called "lengthy." *See In Re Ramirez*, 408 P. 3d 1065, 1075 (2018). In that case, this Court explained:

Given the accused's multiple violations in this case, each of which was knowingly or intentionally committed; the extended time period over which the violations occurred; the substantial injury caused to [a client]; the multiple aggravating factors, including the accused's selfish motive and [the same client's] vulnerability; and the limited mitigating factors, we conclude that a lengthy sanction is appropriate.

Id. No such findings are possible here. Yet, Long has already endured a suspension that is as long as what this Court imposed on an attorney with repeated drunk and reckless driving arrests, including an incident in which he drove with someone clinging to the hood. *See In re McDonough*, 336 Or. 36, 77 P.3d 306, 311 (2003).

Long remains suspended under a tyranny of allegations only. There was never more than mere unsubstantiated allegations of a poorly defined and amorphous risk. Even if Long had engaged in the conduct alleged by the Bar in its BR-3.1 petition (which he did not), he could not be said to pose a danger similar to what is reflected in cases of 18-month suspensions. *E.g. McDonough, supra*. Thus, the ongoing 18-month suspension is excessive and should end immediately.¹⁶

The lack of justification for suspending Long is vividly illustrated by contrasting another contemporaneous case. The day after Long was suspended, attorney Erik Graeff fired seven rounds into another lawyer's office in anger and

¹⁶ Long does not address, and has never addressed, ODC's concern that his suspension will automatically terminate under the Bar Rules because he is suspended by an order of this Court that specifically states that he "is suspended from the practice of law in Oregon until further order of the court." Order Imposing Interim Suspension, Case No. N007129 (5-3-18).

nearly hit a staff person. In the 13 months he awaited trial, ODC did not issue a warning or make any apparent effort to publicize the risk Graeff posed.¹⁷

Further, ODC took no apparent steps to stop Graeff from practicing law. Instead, Graeff was permitted to remain in practice, and did in fact practice, until January 15, 2019. *See* Ex. 20. He had entered an agreement with the Bar, based on his guilty plea, under which he began a BR-3.4 suspension after that date, presumably because Graeff was scheduled to be sentenced the following week. He was sentenced to 18-months in prison.¹⁸

Any suspension, like disbarment, serves as an incapacitating sanction “designed to protect the public and the administration of justice by removing the bad actors from the practice of law” is therefore “typically reserved for the ‘worst’ types of misconduct.” Leslie C. Levin, *The Emperor's Clothes and Other Tales About the Standards for Imposing Lawyer Discipline Sanctions*, 48 AM. U. L. REV. 1, 20-21 (1998). The insurmountable problem with the ongoing suspension of Long is that there was and is *no legitimate evidence* to support a conclusion that Long has engaged in *any* behavior warranting with *any* form of suspension, let

¹⁷ The Beaverton Police Department advised the public about the violence, noting “Graeff is a practicing licensed attorney in Oregon and Washington.” Ex. 19.

¹⁸ Graeff’s prospective, stipulated BR-3.4 suspension creates an inconsistency and tension because BR-3.4 requires “determining that immediate and irreparable harm to the attorney’s clients or the public is likely to result if a suspension of the attorney’s license to practice law is not ordered.” It is not clear how he could be allowed to practice for some period after reaching the agreement if his violent outbursts made him an immediate risk in need of suspension.

alone *immediate* suspension and pursuit of disbarment. Even more disturbing, there were effectively *zero allegations* of conduct warranting disbarment when ODC persuaded this Court to grant its BR-3.1 petition.

Ordinarily, perhaps, a state high court could reasonably begin with a presumption that disciplinary counsel's designation of a case as requiring an emergency suspension indicates seriously dangerous attorney misconduct. One might forgive a Court for not looking too closely before ordering interim suspension in cases where disciplinary counsel alleges a danger to the public. Here, however, any such presumption was exploited by ODC to trick the Court into harming Long and his clients, thereby enabling ODC to harvest complaints that could be presented as potentially worthy of disbarment in Case No. S066649.

Plainly, if ODC's failure to request BR-3.1 suspension of Graeff is justifiable, the suspension of Long is not. And if Graeff should have been the subject of a BR-3.1 petition, why was ODC focusing on Long and ignoring Graeff?

There is no justification for ODC's November 2017 argument that Long posed a danger to the public in light of their failure to seek Graeff's suspension. The ODC's conduct across the cases discussed herein reveals such disparate treatment that it shows Long was improperly targeted and, therefore, must be reinstated immediately to avoid condoning a selective prosecution that violates Article I, section 20 of the Oregon Constitution and the Equal Protection Clause.

A. LONG IS PLAINLY NOT DANGEROUS, ESPECIALLY NEXT TO GRAEFF

This Court has explained that, “[l]awyer discipline, involving guilt-like stigma, requires [a] higher standard” of proof than civil cases. *Zockert v. Fanning*, 310 Ore. 514, 527 (1990). Whatever one might have thought previously, it is now impossible to say that clear and convincing evidence justifies suspending Long. Thus, he requests reinstatement.

Along with allowing Deveny to retain her files for a year, ODC’s handling of Graeff’s conduct demonstrates that ODC’s claims about Long are disingenuous. In August 2017, ODC received a Bar complaint against Graeff for “physically assaulting” a female former client, who “report[ed] that he . . . laid hands on her and shoved her against a wall” and “[t]he police . . . photographed her visible injuries.” Ex. 21. Another client complained of Graeff’s threatening conduct , including a November 29, 2018 email stating, “[i]f you [or your husband] ever show up unannounced . . . I would simply break his goddamn face. I also keep licensed firearms in my office so you have been warned.” Ex. 22. The complaint appeared to linger until February 2018, when, suddenly, the matter was referred to ODC for possible prosecution.

On December 21, 2017 – coincidentally, the day between this Court’s order immediately suspending Long and the ODC’s dramatic seizure of Long’s files

with sheriff's deputies – Graeff shot seven rounds from a firearm into another attorney's office, nearly hitting a staff person. News reports and Graeff's arrest unfolded slowly. *See* Everton Bailey Jr., *Attorney accused of shooting other lawyer's office in Beaverton*, THE OREGONIAN (Feb. 28, 2018). Subsequently, police found an apparent methamphetamine production laboratory in Graeff's home in Vancouver, WA. *See* Everton Bailey Jr., *Attorney accused of shooting other lawyer's office suspected of having home meth lab*, THE OREGONIAN (Mar. 26, 2018).

Even after the shooting, ODC did nothing to restrain Graeff's practice of law or to otherwise protect Graeff's clients or the public. ODC staff specifically confirmed that Graeff was never subject to a BR-3.1 petition. Ex. 23.

In early February 2018, a client complained because Graeff sent him the following email:

YOU LISTEN TO ME YOU SON OF BITCH. I HAVE HAD IT WITH BAD REVIEWS FROM PEOPLE WHOSE CASE I DON'T TAKE. I WAS ATTENTIVE AND GENEROUS WITH YOU. TAKE YOUR FUCKING FRAUDULENT REVIEW DOWN, OR I WILL SHOW YOU A REAL LEGAL BATTEL.

Ex. 24 at 3 (caps in original). A similar voice mail from Graeff to the client was also included. Remarkably, in less than a week, Assistant General Counsel Linn Davis wrote to the client to explain that she “conclude[d] that there is no sufficient

basis to warrant a referral to Disciplinary Counsel.” *Id.* She specifically stated that “Graeff’s angry words to you do not violate [disciplinary] rules or statutes” and, further, that she “cannot conclude that his threat was made in bad faith and utterly lacking in merit.” *Id.*

For more than a year after the shooting, and well after the apparent meth lab was found in his home, Graeff practiced law while awaiting trial. Graeff stipulated to suspension under BR-3.4, effective January 16, 2019 (one week before his sentencing hearing). On January 23, 2019, Graeff was sentenced to 18 months in prison. It does not appear that the Bar imposed any measures (beyond, perhaps Graeff’s promise to behave) limiting Graeff’s ability to practice before January 2019.

In Long’s case, Cournoyer premised ODC’s request for immediate suspension on the supposed risk revealed by “communications with” Alderman and Roach, referring primarily to his text messages. Ex.1. As has been borne out over time, Long was responding to a very real threat to his children and a false allegation by Roach. He wrote to his former friend and legal assistant, Alderman, especially, upon learning that while she was working with him and watching his children, she was also going behind his back to advantage Smith’s effort to prevent Long from seeing his children in the future.

The language Long chose was intemperate and regrettable, and expressed his anger and sense of despair in overly strong terms. It was a foolish mistake, but one that was peppered with assurances of safety (to both Alderman and her attorney, Creighton). *See* Ex. 25 (“Let me be extremely clear: I will not now, nor ever, harm or undermine the physical safety of Morgana Alderman”) (emphasis removed). Further, even Alderman testified – *twice* – that Long never directly threatened her with any form of imminent physical harm (which also shows the SPO she obtained plainly violates Art. I, sec. 8 of the Oregon Constitution). R. 2827 (Long: “Okay. But no direct physical threats –;” Alderman: “I guess not.” Long: “-- towards you? Okay.”), 2831 (Long: “Okay. Including my text messages, have you ever known me to make a direct physical threat?” Alderman: “No, I guess not.”), and 6078 (in later hearing, Alderman attempted to change her answer, but nonetheless agreed again that Long never made any direct physical threats).

Long’s messages were to women he knew personally, not to clients. Long has never been accused of aggression toward clients and no record of physical aggression in any context. Yet, Long was immediately suspended and remains so 18 months later.

Graeff – who assaulted one client, threatened another, shot a firearm into an occupied office, and more – was permitted to practice unimpeded (and, so far as one can tell, unmonitored) for over a year. In the absence of his guilty plea and

sentencing, there is no reason to think ODC would have ever stopped Graeff from practicing – if he was safe to practice for the year immediately following the reckless shooting into an office, why would ODC declare him unsafe at some later time?

There is not so much as a pretext to justify how Long could possibly be more dangerous than Graeff. There is literally no basis to determine that Long is dangerous in any manner, and certainly not in comparison with Graeff. One might ask whether the disciplinary power is being abused to inflict some punishment or retribution on Long.

Ironically, the judge who sentenced Graeff had coached a high school mock trial team with Long for the two preceding years as part of the Classroom Law Project. Long did not want to create any difficulty for the judge by requesting or subpoenaing testimony. However, Long has absolute confidence there was never any question whether he was entirely safe to work with students (including the judge's own daughter). Of course, Long had been working with students for the preceding decade without a single complaint at that point. There was no basis for believing that any danger to anyone arose from Long teaching, practicing law, or anything else. That remains true.

B. CONTINUED SUSPENSION IS UNCONSTITUTIONAL

The continued suspension of Long under the present circumstances violates the Oregon Constitution, Article I, section 20 and the Equal Protection Clause. There is simply no rational way to justify continuing to restrict Long from the practice of law. This is true whether Long’s situation is viewed in isolation – in which case concerns are more appropriately analyzed under the Due Process Clause and Article I, section 10 of the Oregon Constitution – or in the context of ODC’s other decisions. The latter point is developed in some detail here, and the former point is then shown by extending the discussion briefly.

1. Continued Suspension Violates the Oregon Constitution

Article I, section 20 of the Oregon Constitution states: “No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens.” The application of this provision to the actions of governmental agencies is well established. *See e.g. State v. Savastano*, 354 Or. 64, 309 P.3d 1083, 1092-93, 1102 (2013) (“this court’s long history of cases . . . confirms . . . [Article I, section 20] applies to government actions generally”). This Court has suggested, if not firmly signaled, that the provision can be applied to actions of the OSB in the disciplinary context. *See In re Gotti*, 330 Or. 517, 8 P.3d 966, 976-77 (2000).

Article I, section 20 prohibits discrimination on the basis of class where there is an insufficient reason to for such discrimination. The precise analysis to be applied varies based on whether the classification at issue is protected. Where a “class of one” approach is used, its application may vary to reflect the particular context in which the issue arises.

In borrowing the provision from the Indiana Constitution, the framers of Oregon’s initial constitution had particular concerns about the provision of “privileges to a favored few” and, thus, “limited the criteria that government can use in granting privileges and immunities.” *See Savastano, supra* at 1090-91. Such limitations on criteria generally apply to the implementation of a law as well as to the legislative adoption thereof. *Id.* at 1093. However, in at least the context of criminal prosecution, such limitations do not affirmatively require that a prosecutor have a clear, generally applicable policy for making charging decisions. *Id.* Instead, it generally requires a rational basis for decisions in individual cases.

An individual asserting violation of Article I, section 20 by governmental action taken against him, such as criminal charging decisions, may prevail by showing that he or she is being treated differently than other similarly situated persons without adequate cause or that an arbitrary governmental decision affecting him or her “lacks a rational basis.” *Id.* at 1102. In evaluating arguments on these bases, the Court generally examines first whether the person was treated

differently from similarly situated individuals and, if so, whether that difference was rational or was “based on class discrimination, animus to [person] or his attorney, or on concerns collateral to” the legitimate considerations in making the decision at issue. *See State v. Farrar*, 786 P. 2d 161, 169 (1990).

In the present case, the ODC’s attorneys acted with specific animus toward Long throughout the entire prosecution of him. He has been literally unable to find any case at any time since 1968 where the attorneys for the OSB – or any other state bar in the country, for that matter – acted with such extreme aggression as Cournoyer and Chourey, at least, and with the full backing of ODC at every turn, have demonstrated. The animus is evident, for example, in the use of the media to deliver defamatory blows to Long’s reputation prior to even serving him with the BR-3.1 petition (Long received a copy of the petition from reporter Aimee Green so that he could comment on it for her article an hour or two later; *see generally* Aimee Green, *State bar warns public about lawyer for his alleged threats against women*, OREGONIAN (11/5/17)), and for nearly a year thereafter (particularly through articles in the *Portland Tribune* authored by Nick Bunick, who received his information through emails from OSB’s Kateri Walsh; *see* Ex.26). It appears rare for OSb to create such media attention to an ethics prosecution. Long was singled out.

Further, the particular animus of ODC's attorneys toward Long, and the role of that animus in the origination and continuation of the current suspension is apparent through even the most rudimentary logical analysis of the claims made by ODC and the penalties requested. For example, ODC attorneys claimed Long was dangerous to the public and to women in particular (as noted in Green, *supra* and the BR-3.1 petition), but had – and still have – no evidence of any situation in which Long actually harmed or threatened to harm anyone in the public generally, nor any woman on the basis of her gender or simply as a member of the public. Instead, apparently seeking to capitalize on the media attention to the #MeToo movement at the time, ODC's attorneys created such claims from Long's privately angry and often moralistic text messages to a former friend (Alderman) who had recently helped care for his children because he discovered that she had been colluding with his ex-wife in Florida to inflict unjustified harm upon him and thereby undermine his bid to protect those children. That Alderman happened to previously work in his law office does not, in any way, support the leap to concluding that Long was somehow dangerous to the public or to women. That claim is a shameful exploitation of ORS 9.537(2), assuming *arguendo* that such immunity applies. *See also* R- 1044-45 (Chourey berating Long about the immunity ODC attorneys enjoy). As such, it highlights the intense animus of the ODC attorneys against Long.

To the extent one might consider the Bar's apparent later-acquired potential for testimonial evidence from former clients such as Williams or Beutler, who may allege conversion in order to prevent the risk of their own liability for money received from the CSF, such consideration does not undercut the evidence of animus. Indeed, the method of acquiring such purported evidence tends to support the conclusion.

However, Long does not need to demonstrate animus in the present context because he has presented clear evidence that the Bar has treated him differently than a similarly situated other. Graeff had committed acts that must have raised the prospect of a BR-3.1 petition, and was expected to face criminal prosecution for such acts. Presumably, the ODC attorneys will argue that such expected prosecution provides a rational basis for their decision not to seek Graeff's BR-3.1 suspension. However, that argument does not address the full year in which Graeff was allowed to practice (including the acquisition of new clients who were not informed of the likelihood that he would soon serve time in prison). There is no rational reason that Graeff could practice law for 2018 but Long could not.

There is, in fact, no legitimate reason that Long became the subject of a BR-3.1 petition because the petition and the ongoing suspension were, and remain, motivated by exactly the type of irrational animus that is prohibited by Article I, section 20. To the extent that evidence of intentional action based on animus may

be questioned, one need only look at the unjustifiable differential treatment of Long and Graeff to realize that Article I, section 20 requires that this Court immediately lift the suspension and allow Long to practice law without delay.

2. Equal Protection Analysis

In the interests of space and in recognition of this Court's role in the resurgence of state constitutional law analysis, this memorandum limits the replication of such analysis to make a federal constitutional argument. By no means, however, does Long intend to waive or otherwise fail to assert such federal constitutional analysis. As relevant here, Long asserts an argument under the Equal Protection Clause of the Fourteenth Amendment that tracks the essential contours of his argument under Article I, section 20 above and hereby incorporates the same by reference.

The Equal Protection Clause prohibits unequal application of state laws on the basis of class, which can include discrimination against a "class of one."

Village of Willowbrook v. Olech, 528 US 562, 564 (2000). Defense against a claim of federal constitutional violation in such cases often "turns on whether there is a rational basis for the *distinction*, rather than the underlying *government action*."

Gerhart v. Lake County, Mont., 637 F. 3d 1013, 1023 (9th Cir. 2011).

Thus, in the present case, along with the points above, the OSB would need to show some rational basis for distinguishing between Graeff and Long in this context, and then treating Long as more dangerous and otherwise singling him out for particularly damaging treatment.¹⁹ Stated differently, the OSB would have to make the impossible showing that, in some rational way, it believed Graeff posed less of a risk to the public (despite having recklessly discharged his firearm angrily into an office building and previously bruising a client by throwing her into a wall) than Long. What evidence OSB might draw on in that effort, even if one looks past the methods by which it was acquired, remains baffling because OSB has yet to be held to account for its particularized and extremely damaging mistreatment of Long over the past 18 months.

C. CONCLUSION

Long should be reinstated as immediately as he was suspended, and in a manner that bypasses the Bar Rules' reinstatement process and permits at least a

¹⁹ Arguably, the appropriate respondent(s) in such a case would be this Court or, perhaps more likely, the individual justices with power to lift the suspension. *C.f. Louis v. Supreme Court of Nevada*, 490 F. Supp. 1174 (1980) (dismissing state bar and state supreme court as defendants, but denying motion to dismiss by individual justices of such court); *see also Supreme Court of Virginia v. Consumers Union of U.S., Inc.*, 462 U.S. 1137, 1142-43 (1983) (Burger, C.J., dissenting) ("judges . . . are subject to suit for injunctive and declaratory relief in their administrative capacities"). Nothing in this memorandum intends to limit the potential application of arguments to defendants other than those specifically named in the particular elucidation of the argument herein advanced.

three month period in which he can re-establish himself as a lawyer before his payments to the OSB and PLF again become due.²⁰ There is no justification for the continuation of the suspension against him, so anything less condones the ODC's unconstitutional selective prosecution. Accordingly, Long hereby requests reinstatement to the practice of law in Oregon with the same immediacy as applied to this Court's December 20, 2017 order suspending him.

IV. MOTION TO DISMISS ALL DISCIPLINARY PROCEEDINGS

Long hereby moves the Oregon Supreme Court to fully and finally dismiss all currently pending matters initiated by the ODC against him. Dismissal is required on at least two independent constitutional bases, each available under the state and federal constitutions.

The Equal Protection Clause and the Oregon Constitution, Article I, section 20 require dismissal on the basis of ODC's treatment of Long as either a "class of one" singled out for particularly wrongful treatment, or as a member of a class of ethical attorneys selected to take the fall for unethical attorneys – a class of scapegoats, essentially, that also includes Lisa Klemp and, perhaps, unknown others.

²⁰ In pleadings on a related matter, the OSB claimed that Long had not paid his 2017 PLF fees. Long was up-to-date with all requirements that had come due – including the installment payments necessary for PLF – when he was suspended.

The Due Process Clause and the Oregon Constitution, Article I, section 10 also requires dismissal on the basis of prosecutorial misconduct. Borrowing from the criminal law, the Fifth and Fourteenth Amendment doctrines related to outrageous government conduct, the supervisory powers of courts, and prosecutorial vindictiveness provide tightly consistent analogical rationales that are easily applied in the attorney disciplinary context.

Those bases for dismissal are not exclusive or exhaustive of available theories, but they are more than sufficient. Other views of the cases generally lead back to the two broad types of analyses identified above – which, when referred to as “due process” and “equal protection” are meant to include both the federal concepts and the analogous (or related, but distinct) state constitutional analytical frameworks.

Terms more commonly employed for attorney misconduct can be used, but the analysis tends to return to due process or equal protection. For example, the misconduct of ODC’s attorneys has grossly prejudiced the administration of justice in the cases against Long, and dismissal on that basis would seem to be a particular flavor of due process protection. *See e.g. In re Maurer*, 364 Or. 190, 431 P.3d 410, 416 (2018) (discussing interference with the administration of justice).

With regard to the facts of the ODC’s activities, the argument in this motion builds on the previous discussions in the memorandum. To the cases of Lori

Deveny and Erik Graeff, it adds ODC's failure address misconduct by former attorney Megan Perry, leading to extensive client injuries. Before doing so, however, it offers an explanation for the present cases by identifying the case of attorney Lisa Klemp as a parallel to the targeting of Long. *See In re Klemp*, 363 Or. 62, 418 P.3d 733 (2018).

By considering these five contemporaneous cases, it appears that something has gone very wrong at ODC. Where ODC has repeatedly assigned importance to cases inverse to the danger posed, as they have here, it is far more likely that misconduct by ODC attorneys is involved in the usual attorney disciplinary case. It may also suggest a large-scale risk to the public and the profession, or even the Court's legitimate disciplinary authority. The relevance here, however, is simply that the evidence of a broader pattern of misconduct strongly supports dismissal of the matters against Long.

Regardless of the mental state behind ODC's actions, one can determine that the present case was manufactured against Long by ODC. The specific reasons for animus against Long are not important to the current analysis, unless they fairly relate to the ODC's legitimate purpose. And yet, in the usual case, the Court is justified in presuming that ODC's attorneys act in good faith for legitimate purposes. The goal of highlighting several cases prosecuted contemporaneously with Long's case is to reveal that they too have peculiarities that suggest that

Long's concerns about unethical conduct in the case against him are justified.

A. WHOSE MISCONDUCT?

The continuation of the cases against Long does not serve the purposes of lawyer discipline. This Court has repeatedly observed that,

[t]he purpose of a lawyer disciplinary proceeding is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely to discharge properly their professional duties to clients, the public, the legal system, and the legal profession.

In re: Cohen, 330 Or. 489, 8 P.3d 953, 963 (2000) (internal quotation marks and citations omitted). By this standard, the ODC's attorneys should be disciplined, not Long.

The misconduct of ODC attorneys in this case alone has caused severe harm to Long's clients (and other individuals), the public (by removing a capable lawyer on false pretenses, among other ways), the legal system (through interference with the administration of justice and waste of resources), and the legal profession (by creating a risk of extreme injury to trust in, and perception of, the profession).

Looking narrowly at the present case, ODC's attorneys gave absolutely no attention to the opinions and experiences of Long's clients prior to demanding his immediate suspension. At the time of the Bar's petition under BR-3.1 in November

2017, *all of Long's clients expressed fundamentally positive views about him*. This entire case is a fraud on the Court and the public.

Any actual harm to Long's clients arose from the immediate suspension that ODC's attorneys obtained with false allegations and outlandish misinterpretation of complex personal circumstances. The timing of events and other circumstantial evidence suggests that ODC's attorneys acted to advance the interests of malicious private parties and/or to distract from wrongdoing in other cases (such as Deveny) by manufacturing complaints against Long. That type of conduct is plainly unconstitutional. *C.f. Spencer v. Peters*, 857 F. 3d 789, 793 (9th Cir. 2017) (“[t]he Fourteenth Amendment prohibits the deliberate fabrication of evidence by a state official”). However, finding intent by ODC is not necessary to dismiss these cases.

ODC's attorneys have not alleged any deficiency in Long's ability to practice law. There was no effort to correct any perceived deficiencies through guidance, assistance with practice management, or any form of probation. Instead, ODC's attorneys declared Long guilty at the outset of their supposed investigation and set about attacking him in every way they could.

ODC did not even perform a cursory investigation to assess the accuracy of whatever allegations they had heard at that time. To the extent that any doubt remains about Long's fitness and ethical character, one need only consider his

extensive record of service in the legal profession.²¹ Most importantly, this Court can look to the strong support of Long's clients – and the absence of any clients in opposition until the ODC's probable future witnesses were paid out of the CSF – to assess whether this case had any justification. It did not.

This case is a fraud, which Long knows personally because he knows his own morals and conduct, but it appears that the best way of demonstrating this to the Court may be by showing that he is not the only one. Examination of four other contemporaneous matters handled by ODC quickly buttresses the conclusion that ODC's attorneys acted improperly in Long's case because the impropriety here fits within *a broader pattern of extreme misconduct*. The appropriate questions are whether and how ODC's attorneys have abused their positions, not whether Long should be forced to endure their mistreatment any longer.

The governance problems that created the present case have much broader

²¹ False allegations pose particular difficulty for decision-makers who seek to make an accurate, unbiased decision because even information that is known to be false tends to become familiar and is therefore assumed to contain some truth, among other reasons. The impacts of false allegations on those in positions of trust have rarely been studied, but are well demonstrated and discussed in Ros Burnett *et al.* *The Context and Impact of Being Wrongly Accused of Abuse in Occupations of Trust*, 56 THE HOWARD JOURNAL 176, 184-93 (2017) and the underlying grant-funded project at the University of Cambridge, Carolyn Hoyle *et al.*, *The Impact of Being Wrongly Accused of Abuse in Occupations of Trust: Victims' Voices* (a grant-funded report available through the University of Oxford Centre for Criminology), especially at pages 57-60.

significance than one attorney's future,²² but that is not for this memorandum to address – except to note that promptly addressing the problem in this case through a prompt dismissal sends the appropriate message more broadly.

B. ODC'S MISCONDUCT: JUST LIKE ATTACKING LISA KLEMP

When Long began researching prosecutions undertaken by ODC contemporaneously with his case (2017-2019), the prosecution of one other attorney quickly stuck out for its apparent parallels to the present matters. That matter was the prosecution of attorney Lisa Klemp, and the apparent parallels have held up under close examination. *See In re Klemp*, 363 Ore. 62, 418 P.3d 733 (2018) (rejecting trial panel's recommendation of disbarment and imposing a reprimand).

As described in Klemp's Bar complaints against ODC attorneys and tort claim notice to OSB (included herewith at Ex. 28 and 29), her experience at the hands of ODC's attorneys from 2013 to 2018 parallels the attack on Long that began in 2017.²³ The similarity in the origins and progression of the prosecutions of Long and Klemp should be concerning, perhaps even more so than ODC's

²² For example, when ethics regulators become unconcerned with ethics, they can quickly become political weapons. *See generally* James E. Moliterno, *Politically Motivated Bar Discipline*, 83 WASH. U. L. Q. 725 (2005).

²³ One ODC attorney is known to have been directly involved in the origination of both the Long and Klemp cases: Cournoyer.

failure to effectively police Deveny because it suggests a degree of planning for active misconduct across multiple cases that would be truly stunning.

Two instances may not prove a pattern, but the parallels in Long and Klemp suggest characteristics – and perhaps even an approach, or “playbook” – for cases aimed (whether due to intent or mistake) at disbaring an innocent attorney.

Differences in the two cases may reflect the 2018 Bar Rules amendments upon the procedures involved, but may also signal ODC’s use of lessons from attacking Klemp to attack Long more effectively because they all seem to imply sophistication and coordination in restricting the attorney’s ability to defend.²⁴

Broadly stated, the overarching similarities are:

- Cases originated by non-client private parties with animosity toward the attorney communicating directly with a DCO attorney, thus bypassing the CAO;
- Excessive and/or defamatory use of the media (and possibly other forms of public embarrassment or humiliation); and
- Unethical actions by the ODC attorneys, apparently aimed solely at damaging the targeted attorney, such as false or misleading statements and

²⁴ One difference is the use of a false BR-3.1 petition to promote a sense of early buy-in in this Court and of inevitability (research did not uncover a single Oregon case in which an attorney was subject to BR-3.1 suspension but ultimately prevailed) while reducing Long’s ability to defend himself, perhaps to make a Form B resignation more likely. *See* Ex. 27 (email from Chourey to Long suggesting Form B resignation in June 2018).

the promotion of false or incompetent evidence.

All five of the cases looked at in preparing this memorandum also seem to demonstrate indifference to the effects of ODC actions on clients of the attorney subject to the prosecution, whether by allowing Deveny to maintain her own accounts even after she resigned or by securing the unnecessary immediate suspension of Long despite (or because of) the predictable impacts on his clients. In a large percentage of the incidents of ODC misconduct, the unethical acts by ODC attorneys are readily available for review in transcripts and other aspects of the written records of both cases. Thus, one might also conclude that the ODC attorneys believe themselves to be wholly unaccountable for their misconduct.

Below are several topics described as problematic in Klemp's Bar complaint and tort claim notice, with similar concerns drawn from Long's case following each (often taken from Long's Bar complaints).²⁵ The purpose is merely to illustrate the extensive similarities in the ODC's attorneys' actions between these two cases, which are also very different than their actions in the three other cases discussed in this memorandum.

- False Statements and False Evidence:

- Klemp: "During trial, OSB counsel allowed witnesses to lie on the stand and even perpetuated the lies. Counsel made material misrepresentations to the Trial

²⁵ Most examples arose in the context of the BR-3.1 hearing in February 2018 because Long was denied an opportunity to be heard or present any evidence at the trial scheduled for August 2018.

Panel . . .” Ex. 28 (10/13/17 Bar Complaint) at 1; see also Ex. 29 (9/13/17 Tort Claim Notice) at pp 2-4 of attached list, citing transcript at 580, 615, 719, 826-27, 966, 1001-02, 1265-72, 1448, 1550, 1556, 1567, and 1948 (with explanation of each citation). Further, “[t]he Bar intentionally prejudiced the administration of justice throughout this proceeding.” Ex. 29 at 2 of list (notice) (emphasis added).

- Long: “A number of [Bevacqua-Lynott’s] statements included clear falsifications or misrepresentations, legally erroneous statements, and had purely harassing purpose;” further, the testimony of Shannon Tallmadge included nearly uncountable statements that were false or delusional yet uncorrected. *See* Ex. __ at 1, 2-5, 12-21 (ABL Complaint); Ex. 7 at 2-15 (listing more than 15 specific false statements by Chourey to this Court). Further, OSB put the attorneys Richardson and Creighton on the stand and each of them committed blatant perjury. Creighton made statements flatly refuted by materials she provided (perhaps inadvertently) to Long, as well as statements that can be shown to be clearly untrue with slight investigation. Richardson testified to matters that are directly contradicted by court-maintained audio-video,²⁶ and she made statements that can be directly contradicted by far more objective evidence in the same transcript. *Compare* R. 6454-57 *with* R. 6468-6470.

- Ignorance of Facts and Law:

- Klemp: Bar “Counsel did not know the facts” and “demonstrated ignorance of the substantive law.” Ex. 29 at 2 (Bar Counsel “had no idea that one of the key characters . . . was in jail or prison during all times material”) and list page 5 (9/13/17 notice), citing trans. at 1425-31 (noting, among other examples, that the Bar “even asked if Klemp took Bankruptcy cases on a Contingency Fee basis”). Further, Bar “counsel demonstrated ignorance as to the rules of professional responsibility concerning confidentiality.” Ex. 28 at 7 (complaints).

- Long (facts): An example of Chourey’s ignorance of the fee agreements in the Bar’s own exhibit books during cross-examination of Long on February 13, 2018:

Q: You generally use flat fee agreements; correct?

A. No. Rarely. I don't know if I ever used one.

²⁶ Richardson’s testimony that Long was “staggering all over the place, barely able to hold himself up” at trial assignment on September 29, 2017 (the day Sturgeon sent an email to Banister’s office, beginning the process that led to Long losing all time-sharing with his children) is contradicted by the FTR recording of that date. R. 286. Obtaining a proper and complete copy of that particular FTR was exceptionally difficult and Long was initially given incomplete or inaccurate copies.

Q. It's our understanding at the bar that that's basically all you've used.

A. Earned on receipt.

Q. So you use earned-on-receipt agreements which allows you to keep the funds.

A. No. You bill at an hourly rate, but they are earned on receipt meaning I don't have to put it in a trust account.

R. 968; *see also* OSB Formal Ethics Opinion No. 2005-151 at 4 (re earned-on-receipt agreements). Further, all of the allegations against Long have been based on some mix of hearsay, speculation and misrepresentation, or flat perjury.

● Long (law): As one of many examples, Bevacqua-Lynott likely violated RPC 1.1 through repeatedly employing incompetent argument that Long's reliance on the Due Process Clause was not relevant because "criminal procedures intended to protect due process and liberty interests are not relevant to disciplinary proceedings," which statement was reprinted verbatim in the Bar's response every time Long advanced any argument referencing his due process rights. *E.g.* R. 2129 (citing *In re Rook*, 276 Or 695, 705 (1976)). However, Long regularly articulated the difference between criminal, civil, and *sui generis* areas of law, and explained that cases such as *In re Ruffalo*, 390 U.S. 544 (1968) and *In re: Griffith*, 304 Or. 575 (1987), have made clear the application of the Due Process Clause to the attorney discipline context. *See e.g.* R. 1996. Thus, it appears Bevacqua-Lynott's argument on that issue was entirely specious and could not have been advanced (or, at least, could not be advanced *repeatedly*) in good faith.

- Changing the Rules:

● Klemp: "The Bar tried to use the Rules of Evidence when they were to its advantage, and argue they didn't apply when it would disadvantage Klemp – ie, all of the hearsay that the Bar had its witnesses testify to," and "the Bar repeatedly declared that the Rules of Evidence do not apply . . . then allege[d] that they do apply" Ex. 28 (citing transcript pages 645, 729-30);

● Long: The ODC attorneys demonstrated their willingness to argue for differing versions of the Bar Rules based on whatever suited them. *See* Ex. 30 (demonstrating inconsistent positions regarding the application of the amended Bar Rules). Further, Long's Response Re: Sturgeon Deposition, filed July 23, 2018, details numerous examples of ODC's attorneys and the Adjudicator changing rules at will to meet their interests or those of others, and apparently to disadvantage Long. *See* R. 1714-24 ("Mr. Long has been truly flabbergasted at the unfairness of this process").

-- Shifting Arguments

- Klemp: Identifies “instance[s] where [Bar Counsel] is creating new theories and asking the Panel to accept the new theories as being contained in the formal complaint somehow,” and contends that “[t]he Bar kept changing the theory -at least as the theories were presented to the Panel - for whatever purpose it deemed fit at the time thereby prejudicing Klemp's rights.” 29 at list page 4-5, citing transcript at 1024.
- Long: As early as March 5, 2018, Long argued to this Court that “the Bar changed its arguments (and the purported evidence underlying them) every time it had to state a position – three different iterations in four months. The changes were not small or immaterial, but sufficiently sweeping to effectively deprive Long of notice regarding what he would face at the hearing. The Bar’s shifting arguments functioned like a con artist’s shell game.” Memorandum in Support of Emergency Motion to Immediately Lift Order of Suspension, Case No. N007129 (3/5/18) at 32. The reliance on Shannon Tallmadge as the only significant witnesses at the February 2018 violated this Court’s precedent regarding the notice requirements of Bar discipline as did the trial panel’s addition of five previously uncharged violations in its opinion. *See e.g. Ellis, supra*, at 451-52.

-- Undermining Cross-examination

- Klemp: Noting that Bar counsel “object[ed] to [Klemp’s attorney] cross-examining” a major Bar witness, describing Bar counsel’s attitude as one in which “Klemp’s ability to cross-examine . . . a witness is immaterial.” Ex.28 at list pg. 2.
- Long: During the BR-3.1 hearing in February 2018, and over Long’s objection, the Bar offered extensive evidence via the hearsay of two attorneys serving as opposing counsel in cases against Long personally rather than allowing cross-examination of the actual accusers (both of whom were actively avoiding service by Long), despite their ready availability to the Bar for testimony; then the Bar blocked admission of the deposition testimony of one of Long’s former assistants who had since moved to Australia with no forwarding address despite its direct relevance; R. 1571.

-- Personal Animosity Prompts DCO Attack (Not Client CAO Complaint)

- Klemp: maintains that a complaint she filed against unauthorized practice of law by another tenant in her office space (which she was arguably required to file by the RPCs) prompted “retaliation against Klemp in orchestrating the Bar complaints filed against” her. *Id.* at list 3. A second person who sought to harm Klemp seemed

to be heavily involved in the initiation of this case. *See* Ex. ____.

- Long: Cournoyer’s letter announcing BR-3.1 identified Creighton as the source of the Bar complaint (which was, apparently, never written or submitted as a formal complaint) and points to the attorney for TMT Development, Richardson, as the source of additional information. Further, it appears highly unlikely these cases would exist without contacts by (or on behalf of) Smith, and it is doubtful that Cournoyer’s interest would have been drawn to Long but for Richardson, whose attention to Long clearly came from Sturgeon, and her attention was apparently drawn by Roach and Alderman, who were drawn in by communicating with Smith. Absent from that knotty web of animosity are any actual concerns for clients or the public. Long’s clients have endorsed him fully.

-- Salacious Media Attention

- Klemp: Articles in *Bend Bulletin* in 2013, 2016, and 2017 (as well as the article following her success in this Court). The 2013 article includes detailed information that is at least borderline defamatory. The 2017 article included a picture of Klemp and carried the headline, “Panel requests disbarment for local attorney: Allegations include the defrauding of a lover’s wife.” Aubrey Wieber, *Panel requests disbarment for local attorney: Allegations include the defrauding of a lover’s wife*, BEND BULLETIN (3/7/17); Sheila G. Miller, *Redmond lawyer faces complaints: Former school board member resigned Oct. 30 citing pregnancy*, BEND BULLETIN (11/6/13).

- Long: a reporter for the *Oregonian* received the November 2017 BR-3.1 petition weeks before Long; the *Portland Tribune* published at least 13 extremely negative articles about Long (fed by OSB’s Walsh); an article with unusual detail and knowledge of Long’s personal life appeared on barcomplaint.com, and Long also received attention on the television news and was on the front cover of the *Portland Tribune*, with all of this highly negative coverage occurring within 18 months and constituting the only negative media coverage he ever experienced.²⁷

The relative geographic and temporal remoteness of Long and Klemp from each other makes it very likely that the parallels between ODC’s attorneys’ attack

²⁷ Notably, while Erik Graeff’s conduct repeatedly received national attention in the ABA publications, there was not national mainstream media attention to Long.

on Klemp and their attack on Long are not coincidental but signal a pattern of wrongful and malicious prosecutions. If so, this represents one extreme on the spectrum of misconduct by ODC attorneys. It is a persistent, albeit rarely discussed, risk of any attorney disciplinary system. *See e.g. Moliterno, supra.*

If any doubt remains about the wrongfulness of ODC's actions, perhaps it can be removed by exploring yet another case in which ODC did *not* act and thus allowed clients (and often their children) to suffer severe harm. The ODC failure to stop Megan Perry occurred during the same timeframe as Klemp's case and overlapped with this matter.

C. YET ANOTHER BAD ACTOR FAVORED . . .

When the complaints about Megan Perry started pouring into the Client Assistant Office (CAO), they were initially denied. By November 2017, the cascade of complaints had become a steady torrent of at least three per month for several months. These complaints were not silly concerns or close calls.

Complaints demonstrate a pattern of misconduct by Perry. She accepted money, did no apparent work, and told the client that the matter had been addressed, forging documents as needed to cover-up her false statements.

One complaint stated that Perry "handed me a custody agreement that she stated was valid," so the client "did as she said and three days later police showed

up at my door to remove the kids. They knew nothing about me having custody.”

See Ex.31. Perry had lied, plain and simple, injuring the client and children.

In another complaint, the client states: “I was told by Megan Perry that I was divorced and had full custody last Fall, 2016. In August of 2017, I discovered that the case had been dropped in December of 2015 and I was still married and didn't have full custody of my daughter.” Ex.32. Again, a direct lie with obvious and profound impact on the client and likely impact on children.

In yet another complaint, Perry lied extensively to the client regarding a stipulated judgment to confirm his parenting time with his ex-wife and regarding a supposed child support reduction. Perry apparently forged proof of mailing and the signature of a notary and process server, when her client inquired. Ultimately, the client missed several visits with his child and was surprised to learn that his child support was a \$4,000 arrears despite Perry's assurances to the contrary.

The complaints are too numerous, too similar, and too widely dispersed across individuals who have no ties to each other to be inaccurate. At first, however, even the complaints with clear indicators of unethical conduct were quickly dismissed. For example, one denial letter explains away a missing document that was clearly placed in Perry's care, accepts Perry's claim of mistake in overcharging a client, and refers client to the fee arbitration program. *See* Ex. 33.

There are other complaints that suggest Perry played favorites and, while perhaps not a competent attorney, did apparently seek to gain advantage for some clients. There are indications that Perry had a corrupting influence on others in the legal community. One complainant alleges that his attorney very suspiciously folded suddenly in an unexpected private conference with Perry (opposing counsel in the case) before a hearing. He later realized that his attorney's failure occurred at the same time as thousands of dollars meant for the complainant was diverted. *See* Ex. 34. One could speculate whether that type of conduct explains the favoritism that OSB showed her, but Long has no specific evidence on that point.

In any event, when DCO finally began to prepare for prosecution of Perry, she availed herself of a Form B resignation and gave her files *to her husband and law partner*, Erik Moeller, who apparently still has them. Presently, Moeller's disciplinary record is completely clean despite his apparent involvement in a multitude of unethical activities with Perry.

On February 15, 2018, Mark Johnson Roberts (then Deputy General Counsel of OSB) received an email sent on behalf of two attorneys who worked with former employees of Perry and Moeller. They reported "great concerns regarding what we anticipate is a 'lie and deny' effort of Ms. Perry and Mr. Moeller." Ex. 35 (McCann Ltr.). The email described "voluminous and damning" evidence, including copies of "documents which were later destroyed by Perry and Moeller."

The author complained that:

Ms. Perry and Mr. Moeller have engaged in some of the most reprehensible and unethical conduct I have heard of. From the local bar's perspective nothing is coming of it. I hope the perception of the local attorneys is not correct.

Ex. 35. As of this writing, Long has not uncovered any information regarding a response to this letter or any specific effort that it spurred.

Disturbingly, although Perry resigned via Form B, there has been no disciplinary action against Moeller so far as Long could determine. There is at least one email by two OSB members claiming to have direct knowledge and documentary proof of Moeller engaged in activities clearly interfering with the administration of justice. Yet, Moeller remains listed as an active Oregon attorney, maintaining his office and displaying no apparent discipline on his record according to osbar.org as of May 28, 2019.²⁸

There was very close to *zero news coverage* of regarding Perry's misconduct in Oregon, even when she voluntarily resigned her license in March 2018. Outside Oregon, one of the people injured by Perry's misconduct became active in reporting on problems related to OSB's response. In one of her articles on the topic, that author maintains that she learned

²⁸ Moeller could serve as another example demonstrating the injustice of Long's suspension. Further, Moeller may represent the extreme end of a spectrum – attorneys who engage in serious misconduct and are able to completely avoid the disciplinary process – that finds Long, who engaged in no misconduct and has been suspended 18 months, at the opposite extreme.

distressing news through two other Perry complainants who had—unsolicited and separated by time and distance—blurted it out to me: that Cournoyer had ridiculed me and insinuated that I shouldn't be spoken to. Even more disturbing, Cournoyer had personal knowledge about my family that could have only come from the gossipy, juvenile, and improperly channeled communications of someone working outside the scope of their position, yet comfortable in the security of it.

Stephanie Volin, *The Duty to Protect the Public* (8-13-18).²⁹ In the same article,

Volin contends:

Disturbingly, there appears to be a concerted effort, by people who happen to work at the Oregon State Bar, to discourage communication among the many victims of Perry's; to limit the discovery of information related to her case; to quash news of her disbarment in the local press.

Id. The work in which these allegations are made appears to be well-researched and artfully written. In fact, the several articles reviewed for this memoranda showed consistently high quality research that raises serious questions concerning key players in the OSB.

In any event, it appears indisputable that Perry committed extensive misconduct, nearly all of which brutalizes the “lawyer's most important ethical duties[,] . . . those owed to clients.” *See In re Knappenberger*, 338 Or. 341, 356, 108 P.3d 1161 (2005). The permanent and irremediable damage caused by Perry

²⁹ The discussion of Perry in this article is followed by discussion of ODC's case against Long and a discussion of Graeff's case. This and other articles by Volin are primarily available through this website: <https://medium.com/@stephanievolin>

was clearly stated to OSB as early as 2015. On that basis, there is no clear reason that the ODC could not have protected most of Perry's victims who later filed complaints.

The failure to protect the public is reprehensible omission by the office of attorneys who aggressively prosecuted Klemp and now prosecute Long with even greater vigor despite the lack of misconduct. In other words, the extent of misconduct *in both directions* is truly outrageous.

D. ... AND STIR FOR A PATTERN OF MISCONDUCT

ODC's attorneys have engaged in *a pattern of misconduct* across at least five contemporaneous cases, damaging dozens-to-hundreds of clients, interfering with the administration of justice in a significant number of cases, and inflicting severe and largely irremediable harm on at least two (and perhaps many more) ethical attorneys. It is stunning how much misconduct by ODC's attorneys becomes apparent by examining just a few cases contemporaneous with Long's, and how widely the ripple effects of such harm are distributed in each case.

In November 2017, the problems with Perry were fully reported in the complaints received. Graeff's unstable conduct had prompted a complaint of assaulting a client and then he threatened another client with use of a firearm, which were apparently ignored, and he would soon recklessly discharge his firearm

in anger. The first crucial complaints regarding Deveny were coming in. Klemp's case was two months away from argument in this Court.

With that setting, it seems there is no way to understand ODC's next significant move as a legitimate effort to meet the goals of attorney discipline in good faith. ODC's attorneys launched the single most extreme weapon in their arsenal, a BR-3.1 petition seeking immediate suspension, against Long. There were no allegations of stealing, no client complaints of any substance, and no apparent indicators of actual damage to anyone. At most, Long had written unkind text messages to two former friends who had interfered with the custody of his children – but, that is all, he wrote text messages expressing anger. The only other apparent precursor was his defiance of TMT Development's demands that he move out of his residence within 24 hours.

E. A RECIPE FOR *DE FACTO* DISBARMENT?

The damage done to Long thus far has been extreme. In the several months following Cournoyer's October 4, 2017 letter, Long lost: access to his children; his ability to practice law; his vehicle; his housing, all of his savings, and the ability to freely travel, as well as his good name and the law practice he built. He is now at risk of unjustified incarceration, permanent stigma, unjustified arrest, and disbarment. Klemp, who retained her license and was nominally victorious,

suffered similar losses over five years and was left permanently damaged.

Long (like Klemp) has been targeted by ODC's attorneys with allegations that they must have known were false, while others (Deveny, Graeff, and Perry) were given unreasonably lenient treatment (if not outright support) despite their egregious misconduct. This pattern is profoundly disturbing, and renders any further prosecution of Long unjust.

It would be hard to formulate a stronger circumstantial case for corruption of the state bar's attorney disciplinary authority than is present here. The conduct of ODC's attorneys during the timeframe of the Long prosecution demonstrated a serious and irreparable lack of integrity, indifference to the interests of the public, and an aggressively malicious use of the disciplinary authority. The conduct of ODC's attorneys may be the most unethical and damaging that Long has encountered in the five states' bar associations with which he has worked over 16 years.³⁰

Not all (and perhaps not many) Oregon attorneys would, or could, withstand the intensive attacks that ODC's lawyers have employed against Long and Klemp. It seems likely that if ODC has targeted other attorneys unrelated to the ethical quality of their conduct, some percentage of them would accept a Form B

³⁰ Long has worked with the legal communities in New York, Florida, Kentucky, Missouri, and Oregon. He is a member of the bar in the first and last, and served on the faculty of law schools in the remaining three.

resignation, as Chourey suggested to Long.

That scenario – a wrongful ODC assault leading to a Form B resignation by the attorney – would bypass this Court’s supervisory authority (especially under the Bar Rules as amended in 2018, in which the Adjudicator handles the initial portion of a BR-3.1 suspension) and strip the attorney of his or her license to practice.³¹ It seems to be what ODC attorneys hoped for in Long’s case, and he feels some obligation to make these claims because others subject to the attack Long has endured might be unable to resist, particularly if they have children in their home. The actions of ODC certainly do not suggest an understanding by ODC’s attorneys that an attorney is innocent until proven guilty; they suggest an intentional attack.

F. ODC ATTACKED LONG

It is not clear how the ODC attorneys could have possibly mistaken Long for the unethical monster they described in the November 2017 petition. If they had done so in good faith, the matter would have been cleared up fairly quickly. By February 2018, at the latest, ODC’s attorneys had clear evidence that none of Long’s clients supported the narrative that ODC was advancing. Why wouldn’t

³¹ This risk goes beyond those identified by the ABA evaluation team that strongly recommended eliminating Form B resignation a few years ago. *See* ABA, OREGON: REPORT ON THE LAWYER DISCIPLINE SYSTEM (2015) AT 91-92.

ODC reassess its goals and approach at that point?

There was room to improve Long's practice, to be sure, and he can identify precisely where it would have been most valuable. Improvements that eliminated his reliance for staff on people he knew socially would have helped the practice, especially by improving certain aspects of the business record-keeping routines. But those matters do not even come close to justifying the intensity of ODC's attack, nor the extreme sanctions it seeks.

The development of this case makes perfect sense if one allows the possibility that ODC *sought to manufacture a case against Long*. That would explain why, for example, there was never any effort by anyone in OSB to encourage practice management or business-related improvements, never an assessment of his practice or other measures to protect his clients, and no time for him to arrange for other attorneys to take over his cases. It would explain why, when the ODC attorneys likely learned of Long's vulnerabilities from Alderman in summer or fall 2017, there was no encouragement to improve the quality of his staff or book-keeping and no effort to promote best practices or even minimize disruptions in that area. Yet, ODC's attorneys seemed to know all about this issue. From the outside, it certainly appears that ODC used information regarding Long's practice to sacrifice the well-being of clients to gain leverage over Long.

Then, the Bar suddenly launched wholly false allegations about his book-

keeper, who then made herself impossible to reach. Long has been unable to reach her and ODC never pursued the allegations. When ODC could have confidence that the records had not been replicated (through discovery in the first case), their most serious complaint against Long – that of Shannon Williams – was born through a \$30,000+ CSF claim and payment. Williams still has not filed a Bar complaint against Long.

That Long remains suspended and at risk of disbarment is anathema to the interests of justice and the rule of law. ODC's conduct demands dismissal of all matters pending against Long. Two broad constitutional guarantees – present in both the Oregon Constitution and the United States Constitution – are violated by the continuation of these proceedings: equal application of law and the provision of a fair legal process.

G. DISMISSAL IS REQUIRED BY OR. CONST. ART. I, S. 20 & EQUAL PROTECTION

The misconduct by ODC's attorneys, as discussed in the motion to reinstate, *supra*, demonstrates that the motivation behind this proceeding is improper. Whether Long is characterized as a class of one whom ODC's attorneys have an irrational desire to harm, or if he is viewed as within a class of ethical attorneys (along with Klemp) who are being falsely prosecuted, dismissal is required.

The background discussion of Article I, section 20 of the Oregon

Constitution and the Equal Protection Clause above need not be repeated.

Although discussed in the context of reinstatement, the concepts are frequently applied to dismiss criminal prosecution. As it is clear that there must, necessarily, be limits on ODC's attorneys' discretion in their prosecution of the disciplinary rules, the same protections should apply in this disciplinary context.

ODC's prosecution of Long was clearly many times more aggressive than the prosecution of Deveny, Graeff, or Perry. Thus, Long can argue that he was singled out by ODC's attorneys for illegitimate reasons. There is, in fact, no known reason that could be legitimate in these circumstances. The cooperation of Deveny and Perry toward a Form B resignation does not explain why ODC did not prevent Deveny from handling her files and funds while immediately stopping Long. Further, it does not explain why a series of complaints against Perry were ignored while claims seemed to be manufactured against Long. Likewise, it is entirely unclear how ODC could possibly justify pursuing a BR-3.1 petition against Long but not against Graeff.

H. DUE PROCESS THEORIES REQUIRE DISMISSAL

Although attorney discipline is *sui generis*, the situation of malicious prosecutions by ODC has important commonalities with situations where criminal prosecutors act unlawfully to falsely convict a defendant. Where criminal

prosecutors have engaged in the type of extreme misconduct that ODC has engaged in here, the courts have also drawn on the Due Process Clause as a means of protecting the rights of citizens.

In the attorney disciplinary context, the due process rights of an attorney are generally viewed in terms of notice and an opportunity to be heard. However, where the misconduct of the disciplinary prosecutors is sufficiently egregious to undermine the protections afforded by such notice and opportunity to be heard, the prosecution must be dismissed. Clearly, matters such as manufacture of evidence, witness tampering, and/or a wholly predetermined outcome to a hearing cannot be tolerated under the Due Process Clause.

There is little guidance on how Article I, section 10 applies in this context. *See generally Smothers v. Gresham Transfer, Inc.*, 23 P.3d 333 (Or. 2001). At a minimum, however, it would seem the guarantee that, “justice shall be administered, openly and without purchase, completely and without delay,” establishes a floor of permissible conditions for the OSB to exercise the authority over attorney discipline conferred by this Court and confirmed by the legislature. *See* ORS 9.9490, 9.529. The misconduct of the ODC attorneys in this case is fundamental and strikes at the foundation of the rule of law and the interests of justice. Surely, Article I, section 10 prohibits such conduct and provides a remedy to an attorney in Long’s current position. Regardless, the Due Process Clause

clearly prohibits state action that render the opportunity to be heard meaningless, which ODC's attorneys have done here.

The U.S. Supreme Court has explained that, where “government conduct . . . [is] fundamentally unfair and 'shocking to the universal sense of Justice,’” dismissal of the prosecution is warranted under the Due Process Clause. *United States vs. Russell*, 411 US 423, 432 (1973), quoting *Kinsella vs. United States*, 361 US 234, 246, 80 S Ct 297, 304, 4 LEd2d 268 (1960). Applying this “outrageous government conduct” theory, the U.S. Court of Appeals for the Ninth Circuit has stated that a case should be dismissed when governmental conduct constitutes[,] in effect, the generation ... of new crimes merely for the sake of pressing criminal charges against the defendant." *United States v. Bogart*, 783 F. 2d 1428, 1436 (9th Cir. 1986) (internal quotation marks and citations omitted).

Here in Oregon, the Court of Appeals has stated that “[a]n outrageous government conduct claim is a close relative of the entrapment defense, but it focuses on the objective impropriety of the government's behavior rather than on the defendant's predisposition to commit the crime." *State v. McArdle*, 91 Or. App. 248, 252 (1988). In another case, the Court of Appeals explained that courts may find outrageous government conduct, “where the government essentially manufactured the crime.” *State v. Deangelo*, 113 Ore. App. 192, 197 (1991).

In a formulation that may prove particularly adaptable to the *sui generis* context of attorney discipline, where the focus is on public protection rather than punishment, the New York Court of Appeals has explained that dismissal is appropriate where, “the record reveals simply a desire to obtain a conviction with no reading that the [government] motive is to prevent further crime or protect the populace.” *People v. Isaacson*, 44 NY 2d 511, 521 (N.Y. Ct. App. 1978). The preceding analysis in this memorandum demonstrates that such reasoning applies to ODC’s conduct against Long.

In a separate but similar doctrinal line, the federal courts, “[g]uided by considerations of justice” have exercised their “supervisory powers” to fashion remedies for violation of recognized rights and to deter illegal conduct, as well as “to preserve judicial integrity.” *U.S. v. Hasting*, 461 U.S. 499, 505 (1983). This approach has also been used where the prosecution’s conduct “raises not a constitutional question but one concerning [the court’s] supervisory powers over . . . enforcement agencies.” *Rea v. U.S.*, 350 US 214, 217 (1956). In this Court, Justice Jones pointed to the supervisory powers as a means of policing prosecutors in his dissenting opinion from the interpretation of Article I, section 10 of the

Oregon Constitution in *State v. Freeland*. 295 Ore. 367, 395 (1985) (Jones, J., dissenting).³²

Here, where the ODC operates to administer the authority of this Court, an analogous exercise of supervisory authority of this Court could provide the basis for dismissing this case. *See* ORS 9.529; *see In re Hendrick*, 346 Or. 98 (20_09) (describing the Bar’s disciplinary attorneys as this Court’s “surrogate”). The need to preserve judicial integrity and prevent injustice is particularly apt here because ODC’s attorneys appear prepared to offer testimony that is not only false but also likely derived from the improper CSF claims that were encouraged due to the immediate suspension obtained by ODC through deception, perjury, and other malicious misconduct.

Third, the doctrine of prosecutorial vindictiveness, generally reserved for charging decisions made to punish a defendant’s assertion of a right, may offer some guidance. In a real way, this case appears to have arisen primarily as a means of punishing Long’s exercise of his legal rights, although the facts are more complex than in the ordinary prosecutorial vindictiveness case. Here, Long exercised his right to contest custody of his children in Florida and, subsequently, his right to resist the termination of his tenancy by TMT Development (including his right to remain in his apartment under ORS 19.335(2) (2017)). Those rights

³² The majority opinion in *Freeland* was overruled by *State v. Savastano*, 354 Or. 64 (2013), making Justice Jones’ dissent more potent.

involved other private parties, each of which then sought to injure Long for retaliatory and vindictive reasons. Rather than direct retaliation for choices in an ongoing case, ODC's attorneys have acted as mercenary agents to injure Long on behalf of private parties. The vindictive hostility flows clearly from Smith and Banister from Florida, through several private Oregonians (Alderman and Roach), into TMT Development, where it was enhanced and passed to Richardson and Creighton and, ultimately culminating with Cournoyer, who then took the lead in initiating these cases and engaged other ODC attorneys. Unlike in *In re Paulson*, 145 P. 3d 171 (2006) and *In re Paulson*, 216 P. 3d 859 (2009), there is no possible good faith basis for these cases to have been initiated. Therefore, they should be dismissed, among other reasons, for their retaliatory character.

As should be clear from the above discussions, ODC's attorneys' actions have been truly outrageous toward Long in each of the ways relevant to doctrines from the criminal law that can readily be analogized to this *sui generis* context.

Whether on the theories suggested here or an independent rationale supplied by the Court, the prosecution of Long should be dismissed immediately and with prejudice.

CONCLUSION

In his recent book, *On Tyranny: 20 Lessons from the Twentieth Century* (2018), Timothy Snyder, a chaired professor of history at Yale University, advises that a core lesson of the fascist and communist corruption of democracy in the 20th century is: “Remember Professional Ethics.” That instruction is particularly important in this case because the ODC’s attorneys manipulated the system they administer with the ultimate goal of inflicting permanent damage upon someone who was, to state the matter in familiar terms, a political opponent.

As the words of this memorandum are read by the law clerks and Justices of the Oregon Supreme Court, this Court has in its hands perhaps the last opportunity to (1) fully evaluate the prosecution from its inception (motion to consolidate), (2) proactively relieve the innocent party of ongoing harm (motion to reinstate), and (3) stand against the further deformation of the RPCs into the self-righteousness and deception represented by the manufactured material, purported to be evidence, ODC’s attorneys will likely offer at the trial scheduled to begin June 12, 2019 (motion to dismiss).³³ Regardless of evidence or arguments entered, if that trial occurs *the trial panel will recommend disbarment*.

³³ Primarily on the advice of the legal academics who reviewed these motions in advance, the earlier portions of this memorandum have been written in an understated style, a detailed discussion of facts was removed, and the evidence behind the strong statements in the first paragraph of the conclusion remains largely held in reserve. The reviewers did not disagree with the conclusions, but merely advised the author to beware alienating the Court.

This memorandum contains three motions, which are intended to be decided separately, each on its own merits. They are grouped together into one memorandum because they arise from the same sets of facts and request related remedies.

Consolidation is needed to prevent ODC from further misleading the Court. Reinstatement ends a plainly unjust ongoing suspension, thereby allowing Long to survive ODC's attack on him. Finally, complete dismissal protects Long from further unjust harm by ODC and ends the ongoing violation of his rights to equal treatment under the law and fair legal process.

Time is of the essence of each remedy.³⁴ The Court should act with all due haste to prevent further unconstitutional harm from accruing.

DATED: JUNE 10, 2019

RESPECTFULLY SUBMITTED,

/s/ E. Andrew Long
E. Andrew Long
OSB. # 033808
Respondent *pro se*

³⁴ Long has submitted two emergency motions on this date as well, seeking to stay the pending trial and/or disqualify the adjudicator.

CERTIFICATE OF SERVICE:

I certify that service of a copy of this brief will be accomplished on the following participant(s) in this case, who is a registered user of the appellate courts' eFiling system, by the appellate courts' eFiling system at the participant's email address as recorded this date in the appellate eFiling system: Disciplinary Counsel Dawn Evans and/or Assistant Disciplinary Counselor Susan Cournoyer on this 10th day of June, 2019.

DATED: JUNE 10, 2019

/s/ E. Andrew Long
E. Andrew Long

SUPPORTING EXHIBITS
Respondent's June 10, 2019 Motions
Oregon Supreme Court Case Nos. S066327 & S066649

Exhibit No.	Page No.
1.....	001
2.....	003
3.....	005
4.....	006
5.....	008
6.....	018
7.....	041
8.....	069
9.....	095
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11.....	100
12.....	112
13.....	116
14.....	118
15.....	123
16.....	129
17.....	132
18.....	135
19.....	136
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34.....	233
35.....	249

Oregon State Bar

October 4, 2017

VIA EMAIL AND FIRST CLASS MAIL

Andrew Long
EA Long Legal, PC
610 SW Broadway, Suite 510
Portland, OR 97205
andrewlongpdx@gmail.com

Re: Andrew Long (Beth Creighton)

Dear Mr. Long:

The Oregon State Bar has received from attorney Beth Creighton copies of dozens of emails you have sent to her client, Morgana Alderman, beginning September 20, 2017 through this morning, in connection with Ms. Alderman's providing evidence and testifying at trial in *TMT Development v Edward A. Long*, Multnomah County Case No. 17LT13201. The Bar has also received from attorney Bonnie Richardson a thumb drive containing thousands of pages of texts and other electronic messages you exchanged with Ms. Alderman, Laura Roach, and others who you anticipated would provide evidence in or testify at the trial. Copies of the emails forwarded by Ms. Creighton and the text and electronic messages forwarded by Ms. Richardson are contained on the thumb drive enclosed.

Your communications with Ms. Alderman and Ms. Roach implicate the provisions of RPC 4.2 [improper communication with a represented person]; RPC 4.4(a) [using means with no substantial purpose other than to embarrass, harass or burden another]; RPC 8.4(a)(2) [committing a criminal act that reflects adversely on honesty, trustworthiness or fitness as a lawyer: actual or attempted witness tampering (ORS 162.285), coercion (ORS 163.275), stalking (ORS 163.732), and/or harassment (ORS 166.065(1)(c))]; and RPC 8.4(a)(4) [engaging in conduct prejudicial to the administration of justice: interfering with a witness].

It is my responsibility to investigate this matter. So I may conduct a fair and informed analysis, I request that you address your conduct in light of the rules and statutes cited above by no later than October 25, 2017, as required by BR 2.6(a)(1).

Please feel free to provide any additional information you consider relevant to this inquiry.

Letter to Andrew Long
October 4, 2017
Page 2

When I receive your response, I will send a copy of it to Ms. Creighton. Please note that all material submitted in the course of this investigation is considered public record and that both you and Ms. Creighton will receive copies.

After a review of all documents and information, I will either dismiss the matter pursuant to BR 2.6(b) or refer the matter to the State Professional Responsibility Board. I will also notify you and Ms. Creighton of any final action taken by this office or the SPRB in the matter.

I request your full and timely cooperation in this investigation. Please be aware that failing to respond to this inquiry may constitute a violation of RPC 8.1(a)(2).

Please note that, at its October 14, 2017 meeting, I will inform the SPRB about your conduct as reflected in these communications to Ms. Alderman and others, so the Board can determine whether it is appropriate to seek your immediate suspension under BR 3.1 (permitting the Bar to petition the Supreme Court for an order suspending an attorney from practice until further order when it appears that the attorney's continuation of practice during disciplinary proceedings will, or is likely to, result in substantial harm to any person or the public at large).

Thank you in advance for your cooperation.

Very truly yours,



Susan R. Cournoyer
Assistant Disciplinary Counsel
Extension 324
scournoyer@osbar.org

SRC:am

Enclosures

cc: Beth Creighton, via email and First Class Mail (without enclosures)
Bonnie Richardson, via email and First Class Mail (without enclosures)

1dr-14



Andrew Long <andrewlongpdx@gmail.com>

Termination?

Emma Paustian <emma@tmtdevelopment.com>
To: Andrew Long <andrewlongpdx@gmail.com>

Wed, Sep 6, 2017 at 11:28 AM

Dear Andrew,

Please be advised that you are expected to comply with the termination notice. Should it become necessary for us to file for eviction we will seek the assistance of the Oregon State Bar as well.

Thank you,

Emma Paustian

Associate Property Manager

O: 503.241.1111

D: 971.230.2389

emma@tmtdevelopment.com

www.tmtdevelopment.com

**TMT DEVELOPMENT**

Honored in the Top 10 Most Admired Commercial Real Estate companies in Oregon
by the Portland Business Journal and Oregon Business 100 Best Green Workplaces.



[Quoted text hidden]



Andrew Long <andrewlongpdx@gmail.com>

Termination?

Emma Paustian <emma@tmtdevelopment.com>
To: Andrew Long <andrewlongpdx@gmail.com>

Wed, Sep 6, 2017 at 11:47 AM

Dear Andrew,

Please refer to the Notice of Termination. Failure to comply will result in an eviction filing with an additional notification to the Oregon Bar Association.

Sincerely,

Emma Paustian

Associate Property Manager

O: 503.241.1111

D: 971.230.2389

emma@tmtdevelopment.com

www.tmtdevelopment.com

**TMT DEVELOPMENT**

Honored in the Top 10 Most Admired Commercial Real Estate companies in Oregon
by the Portland Business Journal and Oregon Business 100 Best Green Workplaces.



From: Andrew Long [mailto:andrewlongpdx@gmail.com]
Sent: Wednesday, September 06, 2017 11:38 AM
To: Emma Paustian <emma@tmtdevelopment.com>
Subject: RE: Termination?

[Quoted text hidden]



Andrew Long <andrewlongpdx@gmail.com>

Question

Nik Chourey <nchourey@osbar.org>
To: Andrew Long <andrewlongpdx@gmail.com>

Tue, Jun 12, 2018 at 9:21 AM

In re Long 1, Case Nos. 17-89, 17-90, 17-109, 18-08 & 18-43

In re Long 2, Case Nos. 17-79, 17-86, 17-87, 17-88, 18-09, 18-31, 18-32, 18-33, & 18-64

Dear Mr. Long,

The State Professional Responsibility Board (SPRB) is the body who is authorized to settle disciplinary matters on behalf of the Bar. That is the same body who authorized the pending formal proceedings against you and has directed that I do not have selection authority. In other words, I am not permitted to convey a selection offer to you. You are, of course, always welcome to make a selection offer to the SPRB, through me. However, the SPRB has indicated that they believe yours are disbarment cases so, candidly speaking, I do not believe that the SPRB would be receptive to anything that did not involve the resignation of your license in Oregon. You can accomplish this by submitting a Form B resignation. If this is something that is of interest to you, please advise and I will direct you to a form for consideration.

Thank you,



Nik Chourey

Assistant Disciplinary Counsel - Liaison

503-431-6387

nchourey@osbar.org

Oregon State Bar • [16037 SW Upper Boones Ferry Road](#) • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

[Quoted text hidden]

Oregon State Bar

January 3, 2018

[REDACTED]
Gresham, OR 97030

Re: Custodianship over law practice of Andrew Long

Dear Mrs. and Mr. [REDACTED]:

I understand that you are a current or recent client of Portland attorney Andrew Long. The purpose of this letter is to inform you about developments concerning Mr. Long's law practice and the location of your legal file.

On December 20, 2017, the Oregon Supreme Court issued an order immediately suspending Mr. Long from the practice of law. On December 22, 2017, the Multnomah County Circuit Court assumed jurisdiction over Mr. Long's law practice. As a result, you may now need to hire another attorney to handle your legal matters. If you do not know the name of an attorney to consult, you may contact the Bar's Lawyer Referral Service at 503-684-3763 or 1-800-452-7636, during regular business hours. The Bar recommends that you contact another attorney immediately so that all of your legal rights can be preserved.

The Multnomah County Circuit Court appointed the Oregon State Bar as custodian of Mr. Long's law practice, including all legal files, client trust funds and other property. The Bar took physical custody of your file on December 22, 2017. The Bar would like to return this file to you as soon as possible and has engaged the services of the Professional Liability Fund to assist in that transfer.

I have enclosed a form that authorizes us to send your file to you and provides us the necessary contact information. Please complete, sign and return the form in the enclosed self-addressed envelope as soon as possible so that we may release your file according to your instructions. Please return the completed form by no later than January 17, 2018. It is imperative that you act promptly so that all your legal rights will be preserved.

Letter to [REDACTED]
January 3, 2018
Page 2

If you believe that you have funds or other property in Mr. Long's possession, please contact me directly at the phone number or email address listed below.

Please feel free to contact me if you have any questions.

Very truly yours,



Susan Cournoyer
Assistant Disciplinary Counsel
(503) 431-6324
1-800-452-8260 (ext. 324)
SCournoyer@osbar.org

SRC:am
Enclosures
cc: Andrew Long

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

Probate Department

Case No. 17PB09149

In the Matter of the Estate of
KATHRYN CORINNE KENNEDY,
Deceased.

**FIRST AND FINAL ACCOUNTING
AND PETITION FOR GENERAL
JUDGMENT OF FINAL
DISTRIBUTION**

(ORS 116.083)

Filing fee: \$281.00 (ORS 21.170(2)(b))

Lori E. Deveny, Personal Representative of the Estate of Kathryn Corinne Kennedy,
presents this *First and Final Accounting and Petition for General Judgment of Final
Distribution*, covering the period from December 1, 2017 through February 27, 2019.

1.

Bonding. No bond has been required in this estate because the bond was waived by the
Limited Judgment for Probate of Will and Appointment of Personal Representative, signed by
the Honorable Katherine Tennyson **on December 1, 2017**.

2.

Restricted Assets. The asset of the Estate – the estate account at Wells Fargo Bank – is
restricted by the *Order Approving Petition for Instruction and Requests Therein* signed by the

Ex 5

1 Honorable Katherine Tennyson on **December 10, 2018.**

2 3.

3 **Asset Schedule.** Attached and marked as Exhibit 1 is the Asset Schedule, which is a
4 complete and accurate statement of all assets owned by the Estate at any time during the
5 accounting period, together with the Personal Representative's estimate of the value of each
6 asset.

7 4.

8 **Receipts and Disbursements.** Attached and marked as Exhibit 2 are schedules of funds
9 received and disbursed from the Estate's depository accounts. As discussed further in paragraph
10 6.f., the Personal Representative also does not provide a ledger for her IOLTA account.

11 5.

12 **Vouchers and Depository Statements.** There are no vouchers. All disbursements were
13 electronic. Attached and marked as Exhibit 3 are depository statements. Not all supporting
14 documentation is provided. As discussed further in paragraph 6.f., the Personal Representative
15 also does not provide a ledger for her IOLTA account.

16 6.

17 **Narrative Description of Changes During the Accounting Period.** During the
18 accounting period, the following changes in assets or financial circumstances occurred:

19 **a. Real Property: 6104 SE 103rd Avenue.** The Personal Representative sold the
20 decedent's residence, located at 6104 SE 103rd Avenue on August 17, 2018 for \$190,000.00.
21 After payment of realtor commissions, closing fees, mortgages, and the Department of Human
22 Service's claim against the estate, the net proceeds from the sale were \$35,641.07. Lawyers
23
24
25
26

1 Title of Oregon issued a check for \$35,641.07 to the Estate of Kathryn Kennedy and this office
 2 held the check until the Personal Representative opened the restricted estate account at Wells
 3 Fargo. After the Personal Representative opened the Estate Account, the Personal
 4 Representative deposited the proceeds of the sale into the Estate Account. The *Final Seller's*
 5 *Statement* is attached as Exhibit 4.

6 **b. 1991 Honda Accord.** The Personal Representative sold the decedent's 1991
 7 Honda Accord on October 6, 2015 for \$1,000.00 and deposited the proceeds into the Personal
 8 Representative's Interest on Lawyer Trust Account (IOLTA). After opening the Estate Account,
 9 the Personal Representative transferred the proceeds from the sale of the Honda from the
 10 Personal Representative's IOLTA to the Estate Account. The *Vehicle Bill of Sale* is attached as
 11 Exhibit 5. (The Personal Representative sold the vehicle prior to her appointment as personal
 12 representative. Pursuant to ORS 114.255, the powers of a personal representative may relate
 13 back in time to give the acts of the personal representative occurring prior to appointment the
 14 same effect as those occurring thereafter.)

15 **c. Household Items.** The Personal Representative hired Kevin Bowers Estate Sales
 16 and Appraisals to clean out the decedent's home and hold an estate sale. The estate sale grossed
 17 \$2,338.00. (The value of the estate's household items has been adjusted on Exhibit 1 to
 18 \$2,338.00, from the \$572.37 listed on the inventory.) After Mr. Bowers' commission and costs
 19 associated with the house clean out, such as multiple trips to the dump, the estate netted
 20 \$572.37. The Personal Representative deposited the proceeds, \$572.37, into the Personal
 21 Representative's IOLTA. Documentation regarding the estate sale is attached as Exhibit 6. (The
 22 Personal Representative held the estate sale prior to her appointment as personal representative.

Pursuant to ORS 114.255, the powers of a personal representative may relate back in time to give the acts of the personal representative occurring prior to appointment the same effect as those occurring thereafter.)

After opening the Estate Account, the Personal Representative transferred the proceeds from the sale of the household items from the Personal Representative's IOLTA to the Estate Account. The remaining household items – the specifically bequeathed Maplewood Secretary (and its contents) and Maplewood hutch/cabinet and its contents – are ready for distribution.

d. Cash. The decedent had \$1,583.37 in cash. The Personal Representative deposited this cash into the Personal Representative's IOLTA. After opening the Estate Account, the Personal Representative transferred this cash to the Estate Account.

e. US Bank Account. The decedent had a checking account at US Bank (#...5145), with a balance of \$547.18, as of her date of death. On February 26, 2019, the Personal Representative paid US Bank \$204.00 for copies of bank statements, closed this account, and deposited the remaining funds - \$123.42 - into the Wells Fargo Estate account. (The Personal Representative had previously deposited \$382.42 of her own funds into her IOLTA, as being earmarked from the US Bank account. The Personal Representative recognizes that her failure to close the US Bank account prior to February 26, 2019 cost the Estate \$55.00 in dormant service charges and necessitated \$204.00 in bank statement fees, for a total of \$259.00 in unnecessary fees from this account. Therefore, she does not seek reimbursement of the \$382.42 of her own funds.)

f. Lori Deveny IOLTA. As discussed above, the Personal Representative deposited the Honda sale proceeds, household items sale proceeds, \$382.42 of her own funds

(representing the balance in the US Bank account), and the decedent's cash into the Personal Representative's IOLTA. After the Personal Representative opened the Wells Fargo Estate Account, the Personal Representative transferred these funds to the estate account. The Personal Representative does not have a ledger for her IOLTA.

g. Wells Fargo Estate Account. The Personal Representative opened the restricted Wells Fargo Estate Account on January 8, 2019 and deposited the house sale proceeds, vehicle sale proceeds, household item sale proceeds, cash, and her own funds (as discussed above) into the Estate Account as follows:

House sale proceeds	\$35,641.07
Honda Accord sale proceeds	\$ 1,000.00
Household item sale proceeds	\$ 572.37
Cash	\$ 1,583.37
Personal Representative's funds	\$ 382.42
TOTAL	\$39,179.23

(A schedule of receipts for this account is attached as Exhibit 2, as referenced in Paragraph 4 above.)

7.

Fiduciary Disclosures. The personal representative makes the following fiduciary disclosures:

a. Resignation from the Oregon State Bar. As disclosed in the *Petition for Instruction*, the Personal Representative is no longer eligible to act as the Personal Representative pursuant to ORS 113.095(4). Per the *Order Approving Petition for Instruction and Requests Therein*, the Personal Representative was authorized to continue to act as Personal Representative, with restrictions.

b. Interest on Lawyer Trust Account. As disclosed in the *Petition for Instruction*

1 and this final accounting, the Personal Represented deposited Estate funds into her IOLTA.
2 Pursuant to the Oregon Rules of Professional Conduct, an attorney must use separate bank
3 accounts to maintain separate estate accounts. The Personal Representative did not do this.

4 8.

5 **Request for Reimbursement.** The Personal Representative requests reimbursement for
6 expenses of administration she has advanced on behalf of the Estate, totaling \$10,114.89. These
7 expenses include funeral expenses, costs associated with maintain and securing the property,
8 costs associated with preparing the house for sale, and the fiduciary education class. A
9 spreadsheet of these expenses, along with supporting documentation, is attached as Exhibit 7.
10 Some of the invoices reference Angi McFarland, the real estate agent selling the home.

12 9.

13 **Expenses of Administration.** Other than attorney fees and a final Portland Water
14 Bureau bill in the amount of \$780.39, no remaining claims or expenses of administration are due
15 from the Estate and all creditors of the decedent and of the Estate have been paid in full.

17 10.

18 **Taxes.** All Federal and Oregon income taxes, estate taxes and personal property taxes, if
19 any, have been paid and all required tax returns have been filed. The Personal Representative
20 represents that no final formal determination has been made regarding the decedent's income tax
21 liability, and the Oregon Department of Revenue and the Internal Revenue Service have three
22 years to recover any tax due from the beneficiaries.

24 11.

25 **Reserve.** The Personal Representative requests authorization to establish a reserve of
26

\$2,500.00 for attorney fees for completion of the final accounting, distribution of the estate's assets, and completion of other closing documents. Any balance remaining in the reserve will be distributed to the residuary devisees under the Decedent's Will in their distributive shares.

12.

Personal Representative's Fee. The Personal Representative has waived her Personal Representative fee.

13.

Attorney Fees and Costs. The Personal Representative represents that Caress Law, PC, has rendered substantial services to this estate. The services are detailed in the *Statement for Attorney Fees and Costs*, filed concurrently with this final accounting. Reasonable fees for the services performed by Caress Law, PC for the estate thus far, equals the sum of \$17,989.84 and costs in the amount of \$992.53, for a total of \$18,982.37.

14.

Remaining Assets. The remaining assets are ready for distribution.

15.

Distribution. The remaining assets are distributable in accordance with the decedent's Will to the following devisees:

Devisee	Distribution
Lois Fulgham	Maplewood Secretary and its contents; 50% of residue of the estate
Elizabeth D. Garrett	Maplewood Hutch/cabinet and its contents; 50% of the residue of the estate

16.

Notice. Notice, as required by statute, will be provided to those persons entitled to

notice.

17.

Closing. The estate is ready for final settlement and distribution. The Personal Representative proposes the following distribution of the remaining funds:

Current balance of estate account	\$ 39,302.89
Portland Water Bureau	\$ (780.39)
Lori Deveny	\$ (10,114.89)
Caress Law fees and costs	\$ (18,982.37)
Caress Law reserve	\$ (2,500.00)
Funds Remaining for Distribution	\$ 6,925.24
Lois (50%)	\$ (3,462.62)
Elizabeth (50%)	\$ (3,462.62)
Funds Remaining in Estate Account	\$ -

WHEREFORE, the Personal Representative prays for a general judgment of final distribution as follows:

- A. Approving the first and final accounting;
- B. Authorizing Wells Fargo write the following checks or money orders from the restricted Estate account (#6491605413) and to send the checks or money orders to Caress Law, PC, so Caress Law, PC may make further distribution:
 - i. Portland Water Bureau: The Personal Representative asks the Court to authorize Wells Fargo to write a check/money order to the Portland Water Bureau (account number: 299-702-880-0) in the amount of the final bill for the decedent's residence. The balance, as of January 24, 2019, is \$780.39.
 - ii. Personal Representative Reimbursement: The Personal Representative asks the Court to authorize Wells Fargo to write a check/money order to

Lori Deveny in the amount of \$10,114.89.

- iii. Caress Law, PC: The Personal Representative asks the Court to authorize Wells Fargo to write a check/money order to Caress Law, PC in the amount of \$18,982.37 for reasonable attorney fees and costs.
- iv. Lois Fulgham: The Personal representative asks the Court to authorize Wells Fargo to write a check/money order to Lois Fulgham in the amount of \$3,462.62.
- v. Elizabeth D. Garrett: The Personal Representative asks the Court to authorize Wells Fargo to write a check/money order to Elizabeth D. Garrett in the amount of \$3,462.62.
- vi. Caress Law, PC: The Personal Representative asks the Court to authorize Wells Fargo to write a check/money order to \$2,500.00, to be held in Caress Law, PC's Interest on Lawyer Trust Account as a reserve for attorney fees and costs for completion of the final accounting, distribution of the estate's assets and completion of the closing documents.

C. Directing Caress Law, PC to hold the \$2,500.00 reserve in its Interest on Lawyer Trust Account until the completion of the final accounting, distribution of the estate assets and completion of the closing documents. Further directing Caress Law, PC, after payment of attorney fees from this reserve, to distribute any balance remaining in the reserve to the decedent's residuary beneficiaries in their percentage shares.

D. Directing distribution of the specific bequests in the decedent's Will to the devisees entitled to them as set forth in Paragraph 15 above.

1 E. On filing receipts for the distribution, the Personal Representative will submit a
2 supplemental judgment to discharge the Personal Representative and close the estate.

3 I hereby declare that the above statement is true to the best of my knowledge and
4 belief, and that I understand it is made for use as evidence in court and is subject to penalty
5 for perjury.

6 Dated this 28th day of February, 2019.

7
8 
9 Lori E. Deveny, Personal Representative

10 Personal Representative:

11 Lori E. Deveny
12 1020 SW Taylor St. STE 690
13 Portland, OR 97205
(503) 225-0440

14 Attorney for Personal Representative:

15 Caress Law, PC
16 Tammi M. Caress, OSB #112962
17 9400 SW Barnes Rd. STE 300
18 Portland, OR 97225
19 Telephone: 503-292-8990
20 Fax: 503-200-2985
21 Email: tammi@caresslaw.estate
22
23
24
25
26

I, Andrew Long, make the following complaint regarding the conduct of Oregon attorney Amber Beavaqua-Lynott for violation of multiple Rules of Professional Conduct (RPC) during the prosecution of an OSB disciplinary matter against me. This complaint is one of several being simultaneously filed. To avoid redundancy, background information necessary to fully evaluate this and the other complaints is provided in a separate document titled "Background Information for All Complaints."

Unethical Conduct During the BR 3.1 Hearing

Ms. Beavaqua-Lynott's closing argument at the BR 3.1 hearing consisted of a series of insults strung together without regard to what actually occurred during the hearing. A number of her statements included clear falsifications or misrepresentations, legally erroneous statements, and had purely harassing purpose.

Ms. Beavaqua-Lynott demonstrated ignorance of and indifference to the law in a statement that had no apparent relationship to the disciplinary matter, but seemed to refer back to my reliance on ORS 19.335 to obtain a post-judgment stay in the eviction matter brought by TMT Development. In an attempt to provide an example of how I am supposedly non-rule-abiding, she stated: "[r]ental agreements, I'll stay here as long as I want; aren't I doing such a great job making them let me stay here?" as an apparent effort to mock me. 2/13/18 Trans. at 584. The phrase is misleading in

its omission of the clear rights afforded by ORS 19.335 and, for that reason, violates RPC 3.3(a) (1), (2), and/or (4). *See In re Obert*, 336 Or 640 (2004). Further, given the very limited evidence on point and the nature of the legal question underlying her statement, Ms. Beavaqua-Lynott also violated RPC 3.4(e) by alluding to factual matters on which no evidence was offered, thus offering her own statements (not as a witness) as factual assertions.

Next, stating that “Mr. Long's clients' legal matters, and future clients are going to get the same raw deal,” (2/13/18 trans. at 584-85), Ms. Beavaqua-Lynott violated the same rules because the evidence provided at the trial overwhelmingly demonstrated my clients’ satisfaction with the representation that I gave. Four clients testified directly that they found me to be especially responsive and caring with respect to their needs, and suggested it would be very difficult to find an attorney of similar quality for a similar price. Further, my suite mate of two years testified that over his 20-plus years of office-sharing, my practice appeared entirely normal in every respect. So, acknowledging that Ms. Beavaqua-Lynott is advancing her client’s case is not a sufficient explanation for a statement so directly contrary to the evidence. At a minimum, the opinion she offers violates RPC 3.4(e).

Ms. Beavaqua-Lynott again refers to matters well outside the evidence offered, thereby making allusions or factual statements in violation of RPC 3.4(e), when she states: “The list of clients he has conned includes the Richmonds, Heather Leonard,

Mr. Butler, Ms. Carpentier, the Gerkies (ph), the Mitchells.” 2/13/18 trans. at 585.

There was no evidence whatsoever offered on the last four of the named clients. The evidence was not even close on the first two, but at least they were mentioned by someone other than Ms. Beavaqua-Lynott. In nearly the same breath, Ms. Beavaqua-Lynott then suggests that I spent client money on methamphetamines (among other improper purposes). The Bar had one of my former assistants on the stand. She gave outrageously negative testimony about me, all of which was unfounded, but never once claimed any use of methamphetamines. If Ms. Beavaqua-Lynott is making that accusation herself, she violates RPC 3.4(e), which is also violated if she is assumed to merely allude to Ms. Alderman’s affidavit because there was no opportunity, in any case, for me to contest that evidence and, therefore, it cannot properly be considered without violating the Due Process Clause.

Likewise, Ms. Beavaqua-Lynott makes repeated references to the idea that I collected money and then did not earn or refund money. To the extent any such claims are based on Ms. Tallmadge’s testimony, they are addressed below. However, Ms. Beavaqua-Lynott names specific clients (such as Mr. Butler) of whom Ms. Tallmadge has no knowledge. There was no other evidence presented regarding those clients and, therefore, Ms. Beavaqua-Lynott was again in violation of RPC 3.4(e). Virtually her entire closing argument violates that provision.

A somewhat closer question in each instance may be whether Ms. Beavaqua-

Lynott falsified evidence or made false statements by suggesting these matters were true despite the complete lack of support in the record. In at least several instances listed above or elsewhere in her argument, Ms. Beavaqua-Lynott violated RPC 3.3(a)(1) by making a false statement before the Special Master, along with RPC 8.4(a)(3)(c).

It is particularly important to note that many of Ms. Beavaqua-Lynott's statements cross over the line from a zealous advocate's characterization of ambiguous evidence to outright misrepresentation or false statements. Even if, for the sake of argument, one accepts that Ms. Beavaqua-Lynott could have accepted and believed (for example) so much of Ms. Tallmadge's testimony as was not factually impossible or entirely ridiculous, many of Ms. Beavaqua-Lynott's statements nonetheless so utterly lack a basis in the evidence that they appear to be pure fabrications from her imagination.

It is not clear for example, where the idea that I "attempted to intimidate opposing counsel in any way [I] can" came from, and Ms. Beavaqua-Lynott does not attempt to tie it to any factual evidence. 2/13/18 Trans. at 589. Likewise, the idea that I don't "know how to handle [my] trust account" has no support and, instead, either reveals Ms. Beavaqua-Lynott's incompetence in understanding the nature of earned-on-receipt fee agreements (RPC 1.1) or her willingness to make false statements (RPC 3.3(a)(1)) and assert frivolous claims just to injure me. (RPC 3.1), all of which

reflects negatively on her fitness to practice.

Further, some of Ms. Beavaqua-Lynott's characterizations of my positions are, in and of themselves, indicative of a complete disregard for truth or respect for another person's rights. For example, she not only ignores my trauma-based reasons for challenging SLAC's recommendations (which, as became apparent during cross-examination of the Bar's SLAC-relevant witness on August 21, 2018, are readily apparent to any third-party with the slightest knowledge of such issues), but she then seemed to ridicule them. She falsely maintained that I "claim[I] would prefer to be disbarred over abstaining from alcohol," thus violating RPC 3.3(a)(1), but also insists that "socially isolating" is a euphemism for being a drunk. 2/13/18 trans. at 593. It is actually the most common experience of victims of traumatic abuse. At a minimum, the Bar's attorneys appear to need an extensive education on the nature of abuse (including the reality that either sex can be abusive or targeted and the need for targets to repair damaged social relations).

In all of the matters that are problematic with the closing argument (very nearly the entire argument), Ms. Beavaqua-Lynott makes claims that should be understood as intended solely to harass or otherwise injure me in violation of RPC 3.1. A competent attorney or attorneys, should have realized the evidence did not support the claims and, therefore, not advanced the pre-scripted closing that Ms. Beavaqua-Lynott gave. Thus, she appears to have violated RPC 1.1 as well by failing

to at least revise the closing argument in a manner that reflected the points for which there was at least arguable evidentiary support, rather than those for which the Bar was utterly unable to produce evidence.

Unethical Conduct Regarding Shannon Tallmadge's Testimony

RPC 3.3(a)(3) provides that if "a witness called by the lawyer [] has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if permitted, disclosure to the tribunal."

Here, Ms. Beavaqua-Lynott was primarily responsible for the testimony of Shannon Tallmadge, and Ms. Tallmadge gave testimony that was false. Ms. Beavaqua-Lynott plainly could have, and should have, known the testimony was false when it was given, or no later than shortly after it was given.

Examples of clearly false statements are apparent throughout Ms. Tallmadge's testimony. They include claiming:

1. she worked for me "[a]pproximately six or seven -- seven months," beginning "January of 2016," 2/12/18 Trans. at 96;
2. she was promised that "as a paralegal I would be paid at \$125 an hour," *id.* at 97;
3. "[he] instruct[ed] me that I had to learn procedures . . . [to] steer him around the law because he didn't really understand it," *id.* at 102;

4. “His billing practices. . . . weren't related to invoices because he didn't really have invoices generated. He . . . he would come up with a figure based on what his material needs were at the time, usually rent or to file another case that he neglected or to get his car out of repo or, you know, if he was just out of money for booze,” id. at 102;
5. regarding the first page of the Bar’s exhibit 10, a June 3, 2016 email from me to Ms. Tallmadge, “He was asking me to go through these documents to put together a response to an RFP for another attorney,” id. at 121;
6. “[h]e told me he was licensed to practice in New York and Florida as well. I found out later that wasn’t true,” id. at 128-29; and
7. “he had been evicted at least three times from his apartment on Hawthorne and at least two times from his office on Southwest Broadway,” id. at 129.

Each of these items should have been a red flag for Ms. Beavaqua-Lynott that her client was lying or too delusional to be reliable.

Information regarding the employment of Laura Nye and when Mr. Long moved into his SW Broadway office demonstrate that Ms. Tallmadge mischaracterized her dates of employment – turning approximately six weeks into six months. This was also obvious from the dates of the emails that Ms. Beavaqua-Lynott relied on, but the Special Master could not assume there were no earlier messages so he would not know. Thus, Ms. Beavaqua-Lynott violated, at least, RPC

3.3(a)(3) and may have violated RPC 3.4(b).

The second point above is facially unbelievable and should have signaled to Ms. Beavaqua-Lynott that something was wrong with Tallmadge's testimony. Similarly, in light of my history as a law professor and well-respected legal scholar, point three above is not credible. The fourth point above is directly contradicted by the Bar's own information concerning invoices that I provided to clients. The fifth point above appears flatly contradicted by the first page of the Bar's exhibit 10 – the attachments that I provided include a response to the RFP, which is what Ms. Tallmadge claimed she was tasked with creating.

Regarding the sixth point, the Bar knows that I am licensed in New York, so it is baffling that Ms. Beavaqua-Lynott could put on evidence purporting to show that I falsely claimed to be licensed in New York or am not licensed there.¹ Finally, the seventh point above is equally stunning – surely, if she is a competent attorney, Ms.

¹ Ms. Tallmadge testified:

Mr. Long had met [a woman] on the street who had shared with him that she was entitled to an inheritance in New York state and that she needed his help in a dispute with her family to get that inheritance. . . . He collected money from her under the guise of being able to help her with her lawsuit in New York.

Q. And where was Mr. Long licensed to practice?

A. Only in Oregon as far as I know.

Q. Okay.

A. He told me he was licensed to practice in New York and Florida as well. I found out later that wasn't true.

Trans. 2/12/18 at 128-29. As is well known to the Bar and others, I have been licensed in New York State since 2005 and even clerked with the New York Court of Appeals. I have never stated I was licensed in Florida. I taught at a law school there.

Beavaqua-Lynott must know that it is extremely unlikely that Ms. Tallmadge's claims are factually accurate. Although it is common sense that being evicted from an apartment three times is nearly impossible and would have disqualified me for future apartments, and the Bar knows I maintained the same office from the time when Ms. Tallmadge worked with me through the time when she was testifying approximately 18 months later, Ms. Beavaqua-Lynott had obligations under RPC 3.3(a)(3) that required disclosure.

In sum, Each of the seven above-listed excerpts of Ms. Tallmadge's testimony constitutes a violation of RPC 3.3(a)(3). They may also violate RPC 3.3(b) and/or RPC 3.4 (b). Further, those seven items were merely the easiest to explain briefly, not an exhaustive list.

On the whole, Ms. Tallmadge presented a story that simply makes no sense – she alleged that she did not need to work with me, that she woke up every single day to 60-89 text messages from me, was only paid sporadically in random envelopes of cash and never as much as promised, and yet she worked for me for six or seven months without learning anything while maintaining a full-time job elsewhere.

Ms. Tallmadge painted a portrait of an extremely dangerous and incompetent attorney, but her testimony was not supported by any clients' testimony.² Instead,

² To the extent it may be deemed somewhat supportive, it is important to note that Nicole Richman's claim to being my client related only to an insurance matter that I never worked on. Further, while I did some work for her husband (T.J. Richman), he

four clients and my officemate for nearly my entire practice (including the entire time Ms. Tallmadge worked for me), Steve Rayne, painted a picture completely opposite of Ms. Tallmadge's claims.

I know what actually occurred with Ms. Tallmadge, but that is not the point in this context. What matters is whether Ms. Beavaqua-Lynott should have been suspicious of whether Ms. Tallmadge's testimony included false and misleading information.

In addressing that question, one must consider that Ms. Tallmadge – the only significant eye witness to testify in support of the Bar's case against me almost every issue – was not mentioned in the BR 3.1 petition. She testified over my objection, and I raised the apparent shell game of shifting allegations from the November petition to the February hearing as a due process challenge immediately thereafter.

Ms. Tallmadge did not appear in the BR 3.1 petition because her complaint was filed on December 21, 2017 – one day after I was suspended from the practice of law. She presumably saw negative press about me and, approximately 18 months after we had any direct contact, and following the clear failure of her prior attempt to sue me for \$220,000 (we settled for \$2,000), decided to attack me by joining the flurry of Bar complaints generated by my suspension.

did not testify and I refunded him for all unearned and earned money that I had accepted from either of them. Finally, I did not meet the Richmans until three months after Ms. Tallmadge departed.

Further, Ms. Tallmadge's testimony suggested that she primarily sought to lay the groundwork for bringing another tort suit. *See Id.* 139-40. In other words, Ms. Tallmadge's testimony instantly led me to believe that she felt vindictive and sought to capitalize on my misfortune by laying out new claims of supposed physical ailments that were patently absurd, apparently in an effort to make them available for later use in seeking money from me.³ Based on my experiences with her, I have high

³ The following testimony, in which Ms. Tallmadge is talking about symptoms in February 2018 that she apparently attributes to receiving text messages from me for several days after she suddenly quit her position by refusing to show up for work 18 months earlier, may be the most illustrative of apparent intent to set up a future suit.

Q. Okay. Now, how has this situation with Mr. Long affected your physical health?

A. Oh, in so many ways. It's created a lot of anxiety which has resulted in a lot of muscular tension. I have chronic neck pain. I have a digestive disorder and a condition caused by my digestion effectively shutting down from living in fear and panic constantly. I have a rash related to the digestive disorder, just a lot of mobility issues, a lot of pain and inflammation.

2/12/18 Trans. at 140. To the best of my recollection, Ms. Tallmadge is about 35 years old. The lack of any concrete causal chain, and the necessary attenuation of any such chain she might later attempt to construct, highlights the absurdity of some other claims by Ms. Tallmadge. *See e.g.* 2/12/18 at 128 (testifying about the supposed meaning of a message I wrote, "he doesn't understand how the procedural -- like the procedure rules work in a court of law and he wants me to learn them and understand them so that I can explain them to him").

confidence that was her intent. Ms. Beavaqua-Lynott (and Mr. Chourey), with no prior personal knowledge of Ms. Tallmadge, still should have seen the red flags regarding her veracity in the totality of the circumstances. Failing that, the bare minimum duty is the one stated in RPC 3.3(a)(3). There is no excuse for Ms. Beavaqua-Lynott's failure to correct the clear (to the Bar) falsifications or mis-statements in Ms. Tallmadge's testimony, a point made clear by the Special Master's extensive reliance on her testimony in his report.

Given all the circumstances, including the context of Ms. Tallmadge's complaint and the specific false statements she made on the stand, Ms. Beavaqua-Lynott had an obligation to take remedial measures to insure that her witness's false statements did not affect the proceeding. *See* RPC 3.3(a)(3). She violated that duty.

Further, Ms. Beavaqua-Lynott's cavalier use of Ms. Tallmadge's testimony – which the Special Master later relied upon – suggests that she knowingly (perhaps intentionally) used Ms. Tallmadge's false testimony to deceive the Special Master and unjust gain advantage in the case. Such conduct makes her a danger to the public, which relies on the individuals in Ms. Beavaqua-Lynott's position to exercise their inherent trust and power responsibly and for the greater good (never for vindictive punishment).

Unethical Conduct in Bar Memoranda

Ms. Beavaqua-Lynott authored most, if not all, of the memoranda advancing the Bar's position in the period between the appointment of a trial panel and the established trial date (roughly March through August 2018). In those documents, she made a number of demonstrably false statements, misrepresentations, and unsupported claims that violate the ethical rules. Below is a survey, not an exhaustive list.

In the Bar's May 2018 motion to utilize prior testimony in lieu of live testimony, Ms. Beavaqua-Lynott made a number of statements that are indefensible. She maintained that "by reason of the order entered in the Stalking Proceeding, Alderman is unavailable for trial" in the Bar disciplinary hearing and that calling Ms. Alderman to trial could "potentially put her at personal risk." OSB Mot. to Use Prior T. at 2. This statement both misstates the law (there is no automatic prohibition on a stalking petitioner attending a trial involving the respondent or even being summoned to court by him or her) and a misrepresentation. Ms. Beavaqua-Lynott vaguely alleges a "personal risk" to Ms. Alderman without providing any basis other than the existence of the order. Here, there is no history of violence and even Ms. Creighton's testimony (on February 12, 2018) suggested that Ms. Alderman only suffered "emotional upset." 2/12/18 Trans. at 176.⁴ Nothing anywhere in the record of this

⁴ In response to a question about how the stalking order affected Ms. Alderman, her

case or the stalking case suggests that Ms. Alderman would be “at risk,” and all of the conduct upon which the order is predicated consisted of sending text messages, which is totally irrelevant to whether Ms. Alderman enters the same room as me. The only actual risk that would arise if Ms. Alderman testified is the risk to the Bar that she would suddenly tell the truth.

On the same page, Ms. Beavaqua-Lynott misidentifies Laura Nye as a “former client” (she was never my client in any respect) and describes Marianne Montlier in the same terms. Ms. Montlier met me through Tinder and we dated very briefly. She was not a client, but asked me casually about mold in her house (which was located in Washington, where I have never practiced in the state court system). In any event, Ms. Beavaqua-Lynott continues her claim that Ms. Montlier was a former client by imagining she was “manipulated into dating” me. That is entirely false and fabricated. These misstatements are significant because Ms. Beavaqua-Lynott is arguing that the women are at some risk from me. There is no evidence to support that conclusion, but it clearly strengthens Ms. Beavaqua-Lynott’s otherwise anemic argument to portray as many supposedly fearful women as clients as possible. If she somehow escapes a finding that she violated RPC 3.3(a)(1) here, she has still violated RPC 8.4(a)(3).

attorney (Ms. Creighton) stated: “she's really grateful that the stalking order was upheld. Prior to that she was walking around in fear of having to deal with him and to deal with the emotional upset that he caused her.” 2/12/18 Trans. at 176.

Ms. Beavaqua-Lynott then fabricates facts to bolster her false legal claim and invent urgency. There is no factual basis for Ms. Beavaqua-Lynott's claim that I am "currently facing criminal charges for violating the stalking order in multiple instances." I am facing completely unwarranted misdemeanor charges arising from my rental of an airbnb via Priceline.com that was unidentified prior to booking. It turned out to be in a building that Ms. Alderman apparently lived in at the time, and was also immediately next to my then-uninhabitable apartment (it had no bathroom).

I had no idea Ms. Alderman suddenly moved across the street from my apartment into a much more expensive apartment upon quitting her job with me. Nonetheless, I was arrested as I stepped off the elevator to walk to my office. The charges in the criminal case include only two that involve facts alleged to have arisen after entry of the SPO. Both appear to allege that the stay in the building itself is the crime and, thus, arise from the same incident. Accordingly, there is no factual basis to assert that I am facing charges for violating the SPO "in multiple instances."

Ms. Beavaqua-Lynott's conduct above, and the incidents described below, violates RPC 3.3(a)(1) and RPC 8.4(a)(3) for dishonesty or misrepresentation. The only alternative appears to be the conclusion that she is incompetent under RPC 1.1.

In the Bar's response to my second motion to continue (dated July 24, 2018), Ms. Beavaqua-Lynott appeared to argue that I would need to demonstrate a "compelling necessity" to obtain a continuance, even though this is clearly not the

case under the Bar Rules. She described the requirement as a “requisite showing of a compelling necessity for a trial continuance,” citing BR 5.4. OSB Resp. to 2nd Mot. Continue at 2. That provision creates two avenues to a continuance – the Adjudicator’s discretion before trial begins and compelling necessity once trial has commenced. Unless she struggles with interpretation to the point of incompetence (violating RPC 1.1), there is no good faith way to make the argument advanced by Ms. Beavaqua-Lynott on behalf of the Bar. The argument misstates the law in violation of RPC 3.4(a)(1).

In the same document, Ms. Beavaqua-Lynott disparages my effort to schedule a deposition with false and baseless claims. Along with insisting that, for some unstated reason, I was required to follow unwritten rules and accede to the request for a supposedly “secure” location (where a judge favorable to the deponent and unfavorable to me seemed likely to unfairly limit my questioning), Ms. Beavaqua-Lynott makes the completely baseless claim that I “omitted several emails” from my attachments when arguing for my right to depose Ms. Sturgeon.⁵

To the best of my knowledge, nothing was omitted. In any event, she does not explain what relevance her comment has – she includes this false factual claim for no

⁵ The Adjudicator, however, in a ruling virtually devoid of reasoning, and concluded that I included too many email strings as attachments I was provided less than three hours to respond to a motion to quash my subpoena for deposition. I am not expert at preparing electronic attachments from email files and the Bar made it impossible for me to maintain clerical staff by seeking my interim suspension.

purpose other than making me look bad. Thus, even if it doesn't violate RPC

3.4(a)(1), footnote three is frivolous under RPC 3.1.

By the Bar's response to my third request for continuance (signed by Mr. Chourey for Ms. Beavaqua-Lynott) on July 31, 2018, the Bar's arguments were almost laughably tired (but, as with everything else the Bar advanced, the Adjudicator followed its recommended result). The lame effort to mount an argument suggests either incompetence or a pre-established result.

In ruling on my second motion for continuance, the Adjudicator reasoned that "BR 5.4 governs continuances of hearing dates. The rule does not require that respondent show a 'compelling necessity therefor' when the request is made to the Adjudicator prior to the hearing date." Order Denying 2nd Mot. for Continue at 1. Thus, when Ms. Beavaqua-Lynott included the exact same "requisite showing of a compelling necessity for a trial continuance" language in her response to my next motion, which remained at least as indefensible as in the prior motion, she violated RPC 1.1 or 8.4(a)(1) and (2) or (3) again. OSB Resp. to 3rd Mot. for Continue at 2-3.

Further ethical violations are rampant throughout the document. For example, Ms. Beavaqua-Lynott states: "for the past year, Long has been threatening to take Alderman's deposition, at which time he would 'force' her to watch videos with him." Id. at 3. The statement is blatantly false and Ms. Beavaqua-Lynott knew that. Specifically, I was under a stalking protective order regarding Ms. Alderman since

mid-October. Although there are criminal charges (which I deny the accuracy of), it would be abundantly clear if I were threatening Ms. Alderman between mid-October 2017 and the July 31, 2018 memorandum. At the absolute most, Ms. Beavaqua-Lynott means that nine-and-one-half months prior, I may have “threatened” her for two-and-one-half months prior to the temporary SPO (which I did not). Not only is it impossible that Ms. Beavaqua-Lynott’s timing is anywhere near accurate, but she also profoundly mischaracterizes my statement to Ms. Creighton that Ms. Alderman would have to watch a single 25-minute video of my ex-wife abusing our children in deposition if I believed that Ms. Alderman was likely to testify in favor of her custody and remained unwilling to have a conversation with me. Ms. Beavaqua-Lynott violated RPC 3.3(a)(1) and either 8.4(a)(1) or (2).

It is not even worth explaining the absurdity of Ms. Beavaqua-Lynott’s argument that my desire to take the deposition of Ms. Alderman – who served as my sole or primary assistant for nearly half of the time I was in solo practice, is the only person who played a significant role in all of the litigation and administrative matters that arose against me since September 2017, and whose attorney filed the complaint concerning her that triggered my interim suspension – is “at best, collateral to the disciplinary charges.” Id. at 4. It is hard to believe that Ms. Beavaqua-Lynott could so incompetent as to fail to understand why my primary accuser, who happens to have apparently maintained a connection to the files on the cloud after leaving her employ

and who knows more details of the practice than anyone but me. Instead, it seems malicious and intentionally dishonest.

Equally ridiculous, but with far broader implications, Ms. Beavaqua-Lynott then argued in the most general language possible that my due process complaints and concerns lack “supporting authority” and merit. *Id.* at 4. She noted that attorney disciplinary matters are not criminal and thus cannot be analyzed as such, which was wholly irrelevant to anything I have ever argued in any context. Ms. Beavaqua-Lynott’s argument was advanced in several places and does not even present the facade necessary to be specious. It is simply bad to the point of belying extreme incompetence or an indifference to the quality of her work that suggests knowledge that the outcome of the process is predetermined.

Ms. Beavaqua-Lynott outdoes herself yet again in the Bar’s response to my motion to re-consider the order permitting the use of prior testimony (which was specifically invited by the Adjudicator in his trial management order). This time, she adopts one of the most outrageously insensitive and profoundly abusive statements imaginable. She alleges:

As Long did in the Eviction Proceeding, Stalking Proceeding, and in the complaints that make up this Bar matter, Long is attempting to utilize the disciplinary process to gain access to one or more of individuals subject to the Testimony Order *for his own personal gratification.*

OSB Resp. to Mot. to Recon. at 3 (emphasis added). I’m not entirely sure which

category best fits this ethical lapse, but it is plainly not based on evidence and does not constitute legal argument. Ms. Beavaqua-Lynott appears to be arguing that I somehow participated in or enjoyed the three proceedings that have destroyed most of my life and left my children effectively without a father because I could talk to women like Morgana Alderman, who very clearly stabbed me in the back and sold my children into as much as a decade of abuse for a year in a nicer apartment.

The above-quoted statement may be the most ignorant, unintelligent, and mean-spirited sentence I have ever seen in litigation documents. Ms. Beavaqua-Lynott shows a profound failure to comprehend the dynamics of human interaction that raises competence questions under RPC 1.1, and constitutes a misrepresentation because there is no form of factual support for her reasoning (it would be the analogical equivalent of stating that Ms. Beavaqua-Lynott writes responsive documents for the Bar because she likes to embarrass herself by displaying ignorance). If Ms. Beavaqua-Lynott is not as ignorant as the statement suggests, it may be that she is executing a larger plan of character assassination and, therefore, has shown a degree of dishonesty that is anathema to the practice of law. Accordingly, the statement violates RPC 1.1, 3.1, 3.3(a)(1), and/or 8.4(a)(3).

Ms. Beavaqua-Lynott's statement that I "cross-examined Morgana Alderman for multiple days over the course of two proceedings" is not technically incorrect, but it is a half-truth that constitutes a lie. Id. at 4; *see In re Obert*, 336 Or 640 (2004).

She knows that those opportunities to cross examine came (1) before I had any reason to expect attention from ODC and (2) well before the formal complaint was filed, let alone amended. The statement is a violation of 3.3(a)(1) and 8.4(a)(1) or (a)(3).

The trial memorandum put forward by Ms. Beavaqua-Lynott and Mr. Chourey presents such a distorted view of the facts that the entire document constitutes an ethical violation. *See e.g.* RPC 8.4(a)(3).

One point, however, warrants specific mention. They contend, at footnote 6 on page 10, that I somehow confirmed that Ms. Montlier did not consent when engaging in sexual activity. The statement is utterly false and unfounded. Much like Ms. Creighton's heedless allegations of rape, this statement appears intentionally calculated to employ false information to damage me, strongly suggesting a lack of the character and fitness to practice law. Ms. Montlier has a *memory* issue – meaning that she may misremember events – but she is fully capable of making adult decisions in the moment (in fact, she is an enforcement officer for the federal government).⁶ The above-referenced statement by the ODC attorneys is thus a misrepresentation aimed at misleading a tribunal and violates RPC 3.3(a)(1) and RPC

⁶ The reliance by any and all attorneys on Ms. Montlier's testimony, which was irrelevant when given, is disquieting. Ms. Montlier has a memory problem from a childhood injury. She acknowledged that she testified against me, two years after we dated approximately four times, because she read an article in the newspaper. It is blatantly obvious from the original testimony that Ms. Creighton stressed Ms. Montlier to make statements that vaguely sound like rape.

8.4(a)(1) or (3).

Unethical Conduct with Regard to Mr. Chourey

As co-counsel with Mr. Chourey on the disciplinary matter against me, Ms. Beavaqua-Lynott may have violated ethical responsibilities vicariously, by acceding to unethical conduct by Mr. Chourey, or in combination with him. Further, depending on how the relationship of Mr. Chourey and Ms. Beavaqua-Lynott is understood with regard to this case, she violated either RPC 5.1 or 5.2 with regard to her engagement with Mr. Chourey as co-counsel when he or they acted unethically on the Bar's behalf.

Unethical Conduct in Performance of Duties (Generally)

It remains entirely unclear why Ms. Beavaqua-Lynott and other members of the ODC have fixated on me while failing to take any measures against attorneys who actually do appear to present a risk of harm to the public (such as Erik Graeff) and settled on very minor sanctions for attorneys who acknowledged conduct that is more severe than I was even accused of (such as Amanda Marshall). Accordingly, unless the conduct can be shown to result from some form of corruption or blackmail, these clearly unsupported decisions should be regarded as evidence of incompetence and frivolousness under RPC 1.1 and 3.1. For both attorneys, as well

as Susan Cournoyer, the broad scope of that offense in misdirecting limited resources warrants an immediate suspension under any version of BR 3.1 and the depth of indifference to the services they provide to the public would strongly militate in favor of disbarment and/or immediate termination of their employment with ODC.

Additional RPC(s) Violated

For all of the RPC violations above, Ms. Beavaqua-Lynott also violated RPC 8.4(a)(1). Further, a great number of the unethical acts by Ms. Beavaqua-Lynott involve at least some degree of misrepresentation or dishonesty. All such acts violated RPC 8.4(a)(3).

I, Andrew Long, make the following complaint regarding the conduct of Oregon attorney Nik Chourey for violation of multiple Rules of Professional Conduct during the prosecution of an OSB disciplinary matter against me.

This complaint is one of several being simultaneously filed. To avoid redundancy, background information necessary to fully evaluate this and the other complaints is provided in a separate document titled “Background Information for All Complaints.”

Unethical Conduct in the BR 3.1 Petition Documents

The BR 3.1 petition documents authored by Mr. Chourey are so filled with unsupported statements and extreme mischaracterizations that one can conclude that Mr. Chourey believes himself completely immune from the disciplinary rules that he enforces.¹ The word “outrageous” does not begin to capture the extent of misrepresentation, pure speculation, and general abuse of ORS 9.537 immunity demonstrated by Mr. Chourey’s actions. It is as if Mr. Chourey agreed to serve as a reputational hitman because he felt able to literally say anything about me with impunity.

¹ Mr. Chourey’s effort to taunt me with his ORS 9.537 immunity regardless of the unjustified damage he does to me or my interests (including my children) suggests a similar conclusion. *See* 2/12/18 Trans. at 491-93.

At the time of the November 3, 2017 BR 3.1 petition, I regarded the allegations as so extremely far from both the truth and anything anyone (except my mentally ill and abusive ex-wife) had ever said to or about me that I too easily assumed they would collapse under their own ridiculousness. As I told Mr. Chourey early on, it seemed more likely to me that he had projected his darkest fantasy-fears onto me than he could possibly have any form of evidence based on an investigation to support his outrageously defamatory statements.

A clear example to me was Mr. Chourey's innuendo-based near-allegation that I would molest college students rather than teach them if they were to intern at my office. Having overseen placement of an entire program of students into internship positions for five years at a law school to tremendous praise and gratitude, and with no negative responses let alone allegations arising therefrom, I simply did not believe Mr. Chourey's outlandish statements would gain any currency. I also doubted whether they were the work of a mentally stable attorney whom the OSB would stand behind. I remain dumbfounded that such an obviously malicious attack by ODC personnel could not only happen but be sustained.

Each of the quotations listed below are taken from Mr. Chourey's memorandum in support of the BR 3.1. Further, each statement lacks *any* credible evidentiary basis for the purported facts or strongly-worded opinions stated therein.²

² It is understood that the BR 3.1 petition contains allegations, which cannot be

Mr. Chourey maintains, for example, that I:

- “incessantly report[my] homicidal and suicidal intentions to at least one former employee;”
- operate a “law office devoid of any accounting for and protection of client funds;” and
- was “actively courting college interns in Portland to ‘work’ for” me, while “present[ing] an imminent risk for violence to [my]self and others, including these prospective interns” because of my “mistreatment of former employees, as well as those [] perceive[d] as not succumbing to [my] demands.”

This outrageous set of allegations, all of which appear on page 3 of the memorandum, combines numerous false statements with no known (now or at the time) evidentiary basis in order to create a false sense of urgency.³

treated as fully proven facts. It is further understood that, when employed properly, BR 3.1 petitions must be able to quickly remove a threat to the public. Even in light of those points, however, an attorney must still have *some* good faith basis for the assertions made in a petition. Here, I can find *none*. The petition makes far more sense if one assumes that Mr. Chourey constructed the most reprehensible character he can imagine, and then worked backwards to pepper it with quasi-facts that he could plausibly argue was an interpretation of something someone said about me. In other words, no reasonable person who sought to perform the mission of an assistant disciplinary counselor could have looked at the evidence available to Mr. Chourey and, in good faith for the purpose of protecting the public, drafted the BR 3.1 petition that was filed against me. It is not even close.

³ Notably, none of these allegations actually suggest the danger to “the public” that OSB warned through a press release well before even serving the petition on me.

Mr. Chourey would surely know that he lacked evidence if he was competently prepared (*i.e.* not in violation of RPC 1.1). The description of me as posing an “imminent risk for violence” could not have any meaningful support. I have never once become violent. The only times I was, even arguably, accused of violence were (1) after I began to demonstrate my ex-wife’s physical violence toward me and my children, she unsuccessfully sought to re-cast her abusive conduct as mutual (her petition for restraining order lost and mine succeeded) and (2) Ms. Roach’s accusations that I “swatted at” her (if that can be considered violence), which arose just after her repeated contacts with Ms. Long. There is no citation for the claim in the memorandum and nothing submitted by either party appears to support the sweeping and generalized conclusion. Id. at 4.

Most obviously, a number of claims in the memorandum or in Mr. Chourey’s declaration in support thereof constitute false statements of fact to a tribunal in violation of RPC 3.3(a)(1). Regardless of whether Mr. Chourey believed my ex-wife’s image of me, was offended by something I wrote, or simply did not care whose reputation he was working to destroy without cause – the information he presented as fact supported by evidence clearly is not. Accordingly, Mr. Chourey intentionally lied multiple times about me. This violates RPC 8.4(a)(3).

Mr. Chourey’s sworn declaration, given under penalty of perjury, includes numerous statements that he must have known to be false. For example, in the

context of a wildly inaccurate description of the supposed incident in Columbia County (some of which could, arguably, be based on what a witness told Mr. Chourey) appear several statements so contrary to the factual record that they must be false statements and/or intentional misrepresentations.

Mr. Chourey states “Long was paid \$3,000 to represent these clients.” Chourey Dec. at 3. However, the Bar’s own documentary evidence showed only \$1,500 paid to me by both of the Richmans combined, then a total of \$1,500 paid from me to the Richmans as a refund. Ms. Richman testified that she believed there was an additional \$1,000 that she paid to me, but could produce no additional records. *See* Trans. 2/12/18 at 50-54. Thus, even crediting the Ms. Richman’s later-asserted-and-never-documented \$1,000 beyond what the documentary records show (an amount she presumably hopes to file as a CSF claim),⁴ would equate to a total of \$2,500 paid to me. Further, even Ms. Richman readily agreed that \$1,500 is documented to have been returned to the Richmans by me. There is no way that I

⁴ As noted in the complaint regarding Ms. Cournoyer, it appears that ODC used the promise of CSF claims as a means of incentivizing and encouraging my less scrupulous clients to cooperate with them. Here, it is not clear why Ms. Richman testified for the Bar. Even though she is the only person with any claim whatsoever to arguably being a client very briefly who testified for the Bar at any time to date, she was not a client during the matters she testified about (her husband was, and he did not testify). There was no apparent legitimate benefit to Ms. Richman, and any claim to being a client that she may have had ended approximately a year prior to her testimony (when her husband ceased being a client and I refunded their money). The only reason I can see for her decision to testify would be having a forum to officially claim an additional \$1,000 once she received the Bar’s communications suggesting such claims will be paid if filed with CSF.

collected, let alone retained, \$3,000 of the Richmans's money under any view of the evidence.⁵

Three separate fee agreements existed for the Richmans, all stating that I would require \$1,000, payable as \$500 on signing and an additional \$500 to be paid as the Richmans were able. The additional \$500 was never paid for any of the fee agreements. Instead, the representation was terminated shortly after the signing and, despite my right to have retained the entire amount (I had billed over \$1,500), I returned the entire \$1,500.

Additional misrepresentations and false statements in Mr. Chourey's declaration include:

1. "Long fled the courthouse before undergoing the breathalyzer the judge had arranged for him, and before Long completed his appearance for his clients"⁶ (pg. 2);
2. "For months Long evaded testing" for alcohol (citing Ex. F) (pg. 4), which, as discussed below, is an obviously false statement because I tested clean for alcohol as soon as SLAC contacted me in January 2017 and, when I took a

⁵ Although less significant, perhaps, another clear error is the date listed for Bob Butler's visit to my office. His initial meeting was June 30, 2018. Mr. Chourey lists July 20, 2018. Mem. at 4.

⁶ This statement is wrong on basically every point it mentions (I suggested the breathalyzer, the judge prohibited me from appearing for my clients, and I never fled anywhere – I just waited for the clients' matter to resolve (which it did, without apparent harm)), all of which had been demonstrated to the Bar well before Mr. Chourey signed the BR 3.1 petition.

second and different test several months later, I expressly noted concerns about a false positive because of prescription medication that affects liver function;

3. sending “25,000 unwanted text and email messages” to Ms. Alderman, which would mean that every single text and email message I sent her was unwanted, even while she worked for me and including messages that responded to direct questions (pg. 6);
4. “By at least April 2017, Long initiated a constant barrage of sexually degrading messages to Alderman. She responded that it makes her uncomfortable, that he must stop harassing her, and she does not want a friendship with her employer Long. Long responded by escalating his violent and sexually oriented communications and demoted Alderman from salary to hourly at his law firm” (pg 6). I acknowledge there are difficult texts occasionally over the year I knew Ms. Alderman, and a cluster of inappropriate texts when she interfered with custody of my children, but there is nothing like what Mr. Chourey suggests. He can clearly and indisputably look at the text messages and determine there was not “a constant barrage of sexually degrading” messages by April (impliedly, then, continuing through August, which is false). Further, there was no threat of violence to Ms. Alderman at any time in my communications. No one who knew me – Ms.

Alderman included (because she confirmed it to me several times in the summer 2017) – could realistically fear violence from me. Last, it is equally clear from the text messages and elsewhere that I never demoted Ms.

Alderman – I sought to retain her full time and, when I asked her for two full time weeks as the summer ended, she said “I can’t do that or I will love it too much and not be able to quit;”⁷ and

5. “By the end of July 2017, as Alderman had continued to reject Long's sexual advances and degradation, Long threatened her” is wrong because I did not make sexual advances toward Ms. Alderman, and I am not aware of any time – despite involvement in this proceeding and two lawsuits against me – that she has ever alleged that I did so; and I have never threatened her physical safety but regularly went out of my way to insure that her safety was assured while she worked with me and, after she quit, to make clear that my anger was not indicative of any risk to her (pg. 7). If I threatened anything, it was to report the truth – that she became deceptive and was endangering my children – to any bar association that was required to consider her character and fitness to practice law. That, of course, would be my duty as her past employer and as

⁷ I did not understand her statement at the time, which was overheard by others who were equally baffled. Now, however, I realize that Ms. Alderman had entered into some form of plan to quit her position and advance false allegations against me. It would seem that she must have had secured housing and employment before doing so and without my knowledge.

an attorney, so it cannot be considered a threat.

All of the above points should have been known such that Mr. Chourey must be understood as making intentionally false statements in his declaration. A reasonably competent attorney would have performed at least enough due diligence pre-trial to check each point for some degree of accuracy. Further, an ethical lawyer will not assert frivolous claims. *See* RPC 1.1 and 3.1. Mr. Chourey failed on both points. As discussed below, in this and other portions of his declaration, the conclusion that Mr. Chourey violated a host of disciplinary rules – likely through perjury or at least false swearing – becomes inescapable if one reviews all available evidence.

Aside from those clear statements that *must* be misrepresentations or false statements because they lack any form of support in evidence, Mr. Chourey's declaration excludes any and all factual information that would appear even slightly favorable toward me while he consistently overstates (often to the point of misleading the reader) any negative purported facts he asserts about me. Mr. Chourey's strategic omission of exculpatory information not only reveals his punitive intent to do harm, but calls into question the legitimacy of the entire proceeding.

For example, in discussing my decision not to comply with SLAC, Mr. Chourey excludes any and all evidence of my very serious struggle regarding the traumatic violence that I suffered and the trauma of having lost my children when

their abusive mother absconded with them. Those matters are listed in professional mental health evaluations of me, and they are described as the sole potentially problematic area. Mr. Chourey has given exceptional energy to trying to damage me further before I recover, which is not in line with the duties and position assigned to him.

Likewise, Mr. Chourey fully ignores the impending death of my mother as the underlying cause of my bedraggled state in Columbia County in October 2016. I have consistently explained that on the night before that appearance, I emotionally drained myself to write my mother a poem expressing my gratitude for her influence on my life and the person I have become, which I had promised her, for what would be my mother's last birthday several days later. *That* was the reason for the incident, not Mr. Chourey's fantastical "night of drinking whiskey." (pg. 2).

It is truly difficult to imagine ways that Mr. Chourey could be more disrespectful in mischaracterizing me. However, he achieves even more stunning moral low points in his thrashing of ethical rules.

In his memorandum supporting the petition, Mr. Chourey utterly ignores my decade of teaching experience, including seven years as a law professor (including five in which I headed a law school externship program while also heading the environmental law program), when he relies on innuendo created by grammatically improper use of quotation marks to suggest that I would molest college students if

they worked for me. Mem. in Supp. at 2 (“Long has and is actively courting college interns in Portland to ‘work’ for him at his firm”). It is, frankly, hard to believe such writing is the serious work of an attorney, let alone one charged with protecting the public’s interest. Mr. Chourey decidedly harmed the public and the perception of the profession by using the PSU program I had established as a means of attacking me. It was shameful, immoral, unethical, and disrespectful to the institutions, students, and core precepts of education because *Mr. Chourey knew what he was saying was not true.*

Similarly, Mr. Chourey presents a telling of my interactions with SLAC that are plainly belied by the exhibits he cites. He completely omits *the express rationale* for my interaction with SLAC even though it is plainly the primary topic of my writings in Exhibit F to Mr. Chourey’s declaration. More egregious, however, is the phrase, “for months Long evaded testing” because it blatantly misstates facts that should have been easily known to Mr. Chourey.

I submitted to a urinalysis screen immediately upon request in January 2017 that showed no indication of alcohol or other problematic substance use. I then submitted to a different form of testing three months later. There was a short delay as the SLAC representative arranged funding for the testing and I scheduled an appointment around my pre-existing commitments. There is no reason to believe, and to my knowledge no one else has ever suggested, that I “evaded” testing. There is

hardly enough time during the relevant period for it to even have been possible for me to do so “for months” because, in the few months I interacted with SLAC, I submitted (readily) to two such evaluations.

My defiance of SLAC was open and conducted in good faith, as is amply clear from the evidence. Mr. Chourey’s claims are entirely and blatantly fabricated, and he is the only apparent source of the fabrication. Thus, Mr. Chourey created false evidence in his declaration by asserting that baseless claim as fact and then signing the document under penalty of perjury. Again, these statements violate multiple RPCs as discussed below, likely as perjury or at least false swearing.

In other instances, Mr. Chourey makes claims that one would naturally expect to have support, but cites no support and, to the best of my knowledge, none exists. For example, he maintains:

On November 17, 2016, Long reported to his legal staff that he had no place to sleep, but he did have \$7,000 on hand, to which staff responded that the \$7,000 was not Long's and should instead be in a trust account.

Chourey Dec. at 9. However, it is not clear where Mr. Chourey derived his information from and the purported facts do not fit with the reality of my life at the time. On the date mentioned, I had an apartment on Hawthorne and was not involved with any case that required holding significant funds in trust (fee agreements were earned-on-receipt, which prohibits placing the money in trust, or contingency, *see* OSB, Formal Opinion No. 2005-151). Thus, either Mr. Chourey invented the

purported facts or created an unduly negative misrepresentation from some mundane communications.

In his memorandum supporting the BR 3.1 petition, Mr. Chourey asserts even less defensible claims. He asserts legal conclusions with not even a hint of evidentiary support through statements such as a “history of behavior includes forcing clients and employees to engage in bizarre intimate relations with” me “or risk physical harm, reduced pay, termination, incompetent representation (despite their payments), and/or destruction of their legal careers.” Mem. at 4. Suffice it to say that the papers are available to the public and I am confident that *no one* will be able to find the messages that Mr. Chourey imagined.

Perhaps the *coup de grace* that should eradicate any integrity from Mr. Chourey’s reputation came when he asserted that I somehow “acknowledged” that my “conduct is driven by [a] belief that [I have] absolutely nothing to lose and [am] judgment-proof.” Mem. at 4-5. Wait; why did I get upset? Fear of losing my children?

Needless to say, the idea that I have nothing to lose is anathema to parenting. It is parenting that I want to be doing, and Mr. Chourey knew or should have known that many times over by November 3, 2017. He lied outright to harm me and stands behind immunity as a Bar employee.

Many of Mr. Chourey’s false statements, which he knew or should have

known were false, constitute perjury under 2017 ORS 162.065 (“a false sworn statement . . . in regard to a material issue, knowing it to be false”), which is a class C felony. The Oregon Supreme Court has noted that when considering the conduct of an attorney for disciplinary purposes, a finding of perjury is possible even if the strict requirements of a criminal indictment are not satisfied. *See In re Lenske*, 269 Ore. 146, 157-60 (1974) (examining cases from several jurisdictions, including the U.S. Supreme Court, back to the 1860s in support of the importance of attorney integrity).

Even if Mr. Chourey’s conduct in each instance may not rise to the level of perjury but involves false statements, such conduct may constitute false swearing under 2017 ORS 162.075, which is a class A misdemeanor. Acts constituting either crime would also constitute a violation of RPC 8.4(a)(2) as both crimes involve dishonesty by definition.

Even if not technically criminal, Mr. Choury’s false statements in his signed declaration while under oath violated RPC 8.4(a)(3) because his misrepresentations either involved dishonesty or a lack of due diligence in examining the matters to which he attested having knowledge, either of which reflect negatively on a person’s fitness to practice law. An attorney’s word must be reliable.

The extent of damages here are very large, particularly when the needless suffering of my clients as a direct result of my suspension is taken into consideration. Mr. Chourey has led the charge to undermine my standing with the Bar and his

intentional false statements were a primary basis upon which my suspension was granted because his declaration was one of three purportedly factual premises upon which the Supreme Court ordered it.

Whether criminal or not, Mr. Chourey's false statements also violate RPC 8.4(a)(4) because they were likely to mislead the Supreme Court. They likely constitute a violation of RPC 3.3(a)(1) as well, and may constitute a violation of RPC 3.3(a)(3) because his declaration constituted evidence. Further, Mr. Chourey's statements discussed above violated RC 3.3(a)(5) and 8.4(a)(1).

To the extent Mr. Chourey could claim that someone, somewhere made an allegation about me sometime that is somewhat related to each of his false statements, the argument is easily disposed of. No known allegations (let alone evidence) even begin to justify the breadth, intensity, and defamatory impact of the claims. I could claim that Mr. Chourey molests children while injecting heroin, and escape defamation claims if I do so in a Bar complaint, but the mere recitation of a such an allegation does not increase the truth of the claim or the objectively verifiability of any basis for it. Thus, it would be equally wrongful for another person to read the preceding sentence and make those allegations on the basis of my writing the words above – but that is the absolute most Mr. Chourey will be able to argue in defense (that he may have heard such bad things about me). The claims are false and warrant discipline.

The above statements by Mr. Chourey are defamatory misrepresentations. If that is what Mr. Chourey does to attempt to protect the public, he poses an immediate risk of harm to the public if he is allowed to continue practicing law. The writing in the petition and supporting memorandum reads like cartoon script or pulp fiction about a mythically evil lawyer and, thereby, does far more harm to the public's perception of the profession than anything that the Bar even alleges that I have done.

Nothing the Bar attributes to me actually poses a danger to the public at large, whereas Mr. Chourey's very public attack on me does (in the guise of protection) denigrate the profession. There is no justification for the extreme statements and, therefore, each is an ethical violation.

Unethical Investigation

Mr. Chourey was the constant in the ODC investigation of me, ironic as that word may be in this context. Accordingly, he is noted as the intake person for the many complaints and CSF claims generated largely by Ms. Cournoyer beginning with the practice takeover. He shares culpability, much as she shares it for the following.

The Bar's August 7, 2018 response to my second request for production, signed by Mr. Chourey alone, notes an interesting and problematic point. Request number 26 sought documents reflecting the Bar's measures to assess the likely

impact of the BR 3.1 suspension, if obtained, on my clients, as well as any documents reflecting measures taken to mitigate such impacts. Following fairly standard objection language, Mr. Chourey acknowledged that “the Bar does not possess any responsive documents.” This means the Bar had no idea what type of harm their BR 3.1 petition would unleash on my clients, nor did it proactively plan to assist or protect them. This lapse, reflecting just as negatively on Ms. Cournoyer, suggests the extent to which punishment impermissibly drove the proceeding.

Unethical Conduct During Trial

Mr. Chourey served as opposing counsel during the BR 3.1 hearing on February 12-13, 2018. On the whole, his conduct was disrespectful and even contemptuous toward me and nearly all of my witnesses. Personally, I got the impression that he was modeling himself off of T.V. lawyers and, perhaps for that reason, was overly aggressive in nearly every cross-examination he conducted without displaying any sensitivity to context. I have been told by at least one other individual that she has not wanted to testify on my behalf primarily because she did not want to deal with the aggression and negativity displayed by Mr. Chourey. While those concerns reflect negatively on the Bar and the profession, they are not the basis of this complaint. In several instances, Mr. Chourey’s conduct also violated the Rules of Professional Conduct.

Mr. Chourey Misled or Lacked Basic Knowledge

The Bar's exhibit book contained three different examples of the fee agreement that I used with the vast majority of clients throughout my time in practice. All of them are "earned on receipt" fee agreements. Mr. Chourey had referred to them on the first day of the hearing.

I testified on the second day. During my cross-examination, the following exchange occurred:

BY MR. CHOUREY:

Q. You generally use flat fee agreements; correct?

MR. LONG:

A. No. Rarely. I don't know if I ever used one.

Q. It's our understanding at the bar that that's basically all you've used.

A. Earned on receipt.

Q. So you use earned-on-receipt agreements which allows you to keep the funds.

A. No. You bill at an hourly rate, but they are earned on receipt meaning I don't have to put it in a trust account.

2/13/18 Trans. at 416. Although there are multiple ways to view this exchange, all of them result in a conclusion that Mr. Chourey violated at least one RPC.

Further, Mr. Chourey was one of the ODC representatives who stormed my office with armed sheriff's deputies and seized all of my active files on December 22,

2017. He therefore had direct access to at least two dozen of my files for approximately six weeks. Nearly all of those files contained earned-on-receipt fee agreements, and none contained flat fee agreements.

Mr. Chourey, therefore, certainly should have known what kind of fee agreement I ordinarily used if he is a minimally competent attorney who did minimally competent preparation to ask question about my practices regarding fee agreements. If he truly did not know, he violated the competence requirements of RPC 1.1.

Assuming that Mr. Chourey is at least minimally competent, one might be able to justify his initial question about the use of flat fee agreements as an effort to probe me. However, his comment, "It's our understanding at the bar that [flat fee agreements are] basically all you've used," cannot be explained in that manner. If not a display of incompetence, it is a problematic statement in several other respects.

First, Mr. Chourey asserted factual knowledge without testifying as a witness and/or alluded to supposed facts that he could not have believed would be supported by admissible evidence. Therefore, Mr. Chourey's conduct was in violation of RPC 3.4(e).

Second, Mr. Chourey asserted a claim with no evidence to support it. Whether viewed through the narrow lens of this particular statement or more broadly in terms of the wholly unsupported assertions by the Bar (in multiple filings and in trial) that

Mr. Long stole from clients in some manner, this (or these) assertion(s) violate RPC 3.1.

Third, Mr. Chourey's statement violates RPC 3.3(a) because – unless he is incompetent – Mr. Chourey must have known that suggesting flat fee agreements are all I ever used was a false statement that may mislead the tribunal. In truth, that appears to be the unethical purpose of the statement – to give the impression that I stole from clients when all of the evidence is to the contrary. It was, in fact, Mr. Chourey and others at ODC who have disrespected and disenfranchised my clients.

Unethical Conduct Regarding Witnesses

Mr. Chourey's conduct regarding witnesses – in preparing his case, offering evidence, and cross-examination – has been unethical in multiple respects. Like the prior points, the issues primarily involve basic questions of honesty and integrity as codified in the RPCs.

The Bar's primary fact-witness, Shannon Tallmadge, gave clearly false testimony. Although questioned by Amber Beavaqua-Lynott, Mr. Chourey, as the lead attorney on this matter, should have known prior to trial what Ms. Tallmadge was expected to say and prevented the false testimony. Even more clearly, he had an obligation to correct Ms. Tallmadge's false statements prior to the end of trial. Permitting Ms. Tallmadge's testimony regarding clearly false dates of employment,

clearly false statements regarding the amount of compensation promised, and other matters stand without correction violated RPC 3.3(a)(3).

Mr. Chourey's conduct in cross-examining my witnesses repeatedly crossed the line from being merely unprofessional to being unethical for violation of RPC 4.4(a). Mr. Chourey appeared "mean-spirited" and asked unduly harsh questions with no apparent legitimate purpose. The practical purpose of his questioning was to intimidate the witnesses and cause such a negative experience that they would not testify for me in subsequent hearings or the final trial. It was particularly egregious given the known vulnerability of my clients.

Unethical Trial Publicity

The Oregonian published an article by Aimee Green, *State Bar Warns Public About Lawyer For His Alleged Threats Against Women* (Nov. 6, 2017), which blasted the allegations made by Mr. Chourey in his November 3, 2017 BR 3.1 petition into the public sphere. Although the quotations on behalf of the Bar all appear to come from the petition, it is clear that the article was prompted by a press release, that someone from the Bar spoke with the reporter, and that the lead attorney on the case was (or should have been) responsible for insuring that conduct on behalf of the Bar comport with the ethical rules he is charged with enforcing.

Regardless of the technical pathway, Mr. Chourey clearly failed to honor the

requirement to refrain from any extrajudicial statement that he knew (indeed, hoped) would be disseminated through the media and had “a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.” RPC 3.6(a). I was not even served until nearly two weeks after the article. The clear purpose was to damage me quickly by making me a pariah and, thereby, gain insurmountable advantage in the subsequent adjudicative proceedings.

If *The Oregonian* article were somehow insufficient, the Bar’s spoon-feeding of reporter Nick Budnick to write hit pieces in *The Portland Tribune*, evident in the partial responses to my discovery requests, certainly demonstrated an overwhelming effort to prejudice the coming adjudicative proceedings. If Mr. Chourey is not responsible for the ethical lapses of the Bar in this regard, please consider this portion of the present complaint as a complaint against each and every attorney within the Bar who has and exercises authority over the release of information to the media.

Unethical Conduct Regarding Discovery

Due largely to Mr. Chourey’s conduct, I was unable to conduct a single deposition in the lead-up to the scheduled August 21, 2018 Bar trial. Such conduct consisted primarily of disingenuously promoting the idea that I could not conduct depositions unless I agreed to a “secure” location as determined by the Bar or the deponent.

I contacted Mr. Chourey to begin arranging depositions on June 20, 2018. He objected to my scheduled deposition of Kendra Hodson and, because I have a declaration from her dating to December 2017 that she confirmed remained accurate, I agreed to cancel it and simply subpoenaed her for trial. I also sought to depose Mr. Chourey, scheduled a deposition with Ms. Sturgeon, could not find Ms. Roach or Lena Davidson for service although I am confident the Bar knows how to locate them, sought repeatedly to secure agreements to depose Ms. Alderman and even had a hearing on my right to do so, and would have liked to depose Rachael Soule. I also sought a continuance in order to depose Ms. Alderman, which was denied.

When I was on the cusp of scheduling deposition for Mr. Chourey himself through subpoena (which he knew), I was blocked from doing so unless I would agree to the unreasonable demand that my opponents' choose the location of the deposition on the pretext of "security." It was clear to me that security was not the real issue, but the Bar sought to limit my right to depose (especially to depose Ms. Sturgeon) through requiring the presence of a judge of my opponent's choosing.⁸

The demands were unreasonable and violated multiple RPCs, most obviously RPC 3.4(d). There is zero evidence that I have ever posed a risk to anyone, and

⁸ The judge selected to supervise Ms. Sturgeon's deposition, for example, had presided over a trial assignment that included denying several of my motions in favor of Ms. Sturgeon's company and, later, conducting my arraignment when I was arrested on Ms. Sturgeon's call – an arraignment at which Ms. Sturgeon personally appeared (with counsel) to argue for increase in my bail and extension of my detention, both of which were granted.

certainly not in a professional setting. The alleged security concern was a complete fabrication.

Neither Mr. Chourey nor anyone else offered any meaningful reason why it was determined that I could not depose witnesses as any other attorney would do and as provided for in the Bar Rules. By using innuendo and implication to suggest an untrue fact (that I pose a danger to any deponent), Mr. Chourey violated RPC 3.3(a)(1) by omission. *See In re Obert*, 336 Or 640 (2004).

The sudden demand for a “secure” location seemed to begin at 4:42pm on Friday, July 20, 2018, when a letter by Bonnie Richardson was emailed to me, along with a memorandum by her associate (Zach Allen) constituting a motion to quash the subpoena I properly issued to compel deposition of their client, Vanessa Sturgeon, as scheduled at 9:00am Tuesday, July 24, 2018. Earlier that week, Mr. Allen had asserted that deposition would only be permitted in what his firm deemed a “secure” location. The only available location that they agreed to was a courtroom they selected, that of a Multnomah County trial judge who had ruled against me and in favor of Ms. Sturgeon in both the TMT Development eviction matter and at the arraignment following my arrest (which Ms. Sturgeon attended to provide argument against my interests through counsel).

Mr. Chourey, on behalf of the Bar, wrote a letter to me on July 19, 2018 claiming that my scheduled and planned depositions would be “wasting . . . DCO’s

time in an informal meeting that will not be useful for trial.” He continued that the Bar’s refusal to attend any depositions as scheduled was “why all proceedings related to your matters have been at Multnomah County Courthouse.” At that time, only two proceedings had occurred – the BR 3.1 hearing, and a pre-trial scheduling hearing with the Adjudicator. At no time did anyone from the Bar suggest that “secure location” was a relevant reason that hearings and similar formal matters were scheduled in available courtrooms at a mutually convenient location. The claims, therefore, are almost certainly false. In any event, Mr. Chourey was without authority to declare whether my discovery plan was “useful for trial” and he lacked any basis for specifying the locations at which I could hold deposition. Thus, he violated RPC 3.4(a) and (d), as well as RPC 8.4(a)(3) by using misrepresentation to prevent usual discovery procedures.

At least twice, the Bar purported to respond to my properly issued RFPs, but actually provided me with a blank thumb drive and a dead hyperlink. These events prevented my discovery until immediately before the August 21, 2018 trial was set to begin. Further, the responses I did eventually receive were incomplete. Accordingly, Mr. Chourey (as the lead attorney) was responsible for two additional violations of RPC 3.4(d) and 8.4(a)(3).

Unethical Conduct with Ms. Beavaqua-Lynott

With regard to all documents that Mr. Chourey signed on behalf of or in conjunction with Ms. Beavaqua-Lynott, all of the ethical violations discussed in my simultaneously filed complaint about her conduct pertaining to such documents should be evaluated under the same provisions with regard to Mr. Chourey. Among these is the rather atrocious set of misrepresentations that constituted the Bar's July 31, 2018 response to my third motion to continue the Bar trial. Further, depending on how the relationship of Mr. Chourey and Ms. Beavaqua-Lynott is understood with regard to this case, he violated either RPC 5.1 or 5.2 with regard to his engagement with Ms. Beavaqua-Lynott as co-counsel when she or they acted unethically on the Bar's behalf.

Unethical Conduct Regarding Disciplinary Inquiries (including ADHD)

In the lead-up to the February 2018 BR 3.1 hearing, Mr. Chourey authored a slew of inquiry letters with short turn-around times, citing the pace of the disciplinary attack on me as the cause of abbreviated response times. Although his letters were frequently written to require extensive responses that served no apparent purpose other than to harass me (thus violating RPC 3.1, at least), Mr. Chourey showed no awareness or interest in respecting my rights when I explained the challenges posed by ADHD after the Bar's requested BR 3.1 suspension had forced me to give up my primary coping mechanism for nearly 17 years (clerical assistance). Instead, he

appeared to attempt to utilize such vulnerabilities to undermine my ability to argue my case, thereby targeting a characteristic recognized as a disability under the ADA. Such conduct violates RPC 8.4(a)(7).

Further, the purported complaints that Mr. Chourey claimed to be investigating were almost exclusively caused by the Bar's action against me. As Mr. Chourey was involved in every step of the case against me, he was well aware of the source of such complaints. Accordingly, the approach he took was fundamentally dishonest and therefore violated RPC 8.4(a)(3).

Unethical Conduct in Performance of Duties (Generally)

It remains entirely unclear why Mr. Chourey and other members of the ODC have fixated on me while failing to take any measures against attorneys who actually do appear to present a risk of harm to the public (such as Erik Graeff) and settled on very minor sanctions for attorneys who acknowledged conduct that is more severe than I was even accused of (such as Amanda Marshall). Accordingly, unless the conduct can be shown to result from undue influence (in which case it is presumably criminal and unethical), these clearly unsupported decisions should be regarded as evidence of incompetence and frivolousness under RPC 1.1 and 3.1. Such failure to perform basic and essential duties makes Mr. Chourey's continued practice of law likely to endanger the public.

Additional RPC(s) Violated

For all of the RPC violations above, Mr. Chourey also appears to have violated RPC 8.4(a)(1). Further, a great number of the unethical acts by Mr. Chourey involve at least some degree of misrepresentation or dishonesty. *See generally* In re Conduct of Carpenter, 337 Ore. 226, 234 (2004) (discussing the standards for such conduct under DR 1-102(A)(3)); *see also* In re Klemp, 363 Ore. 62, 100 (2018) (*citing* Carpenter to interpret RPC 8.4(a)(3)). All such acts violated RPC 8.4(a)(3).

I, Andrew Long, make the following complaint regarding the conduct of Oregon attorney Susan Cournoyer for violation of multiple Rules of Professional Conduct (RPC) related to OSB proceedings against me and the custodianship of my law practice. This complaint is one of several being simultaneously filed. To avoid redundancy, background information necessary to fully evaluate this and the other complaints is provided in a separate document titled "Background Information for All Complaints."

This complaint is one of several being simultaneously filed. To avoid redundancy, background information necessary to fully evaluate this and the other complaints is provided in a separate document titled "Background for All Complaints."

My concerns about Ms. Cournoyer's conduct relate specifically to her role in handling Beth Creighton's "complaint" against me, purported investigation of my conduct, declaration in support of my interim suspension under BR 3.1 (2017), activities regarding the custodianship of my practice and communication with my clients, and interactions with Florida attorney Kim Banister (my ex-wife's divorce counsel) and others who appear to have acted with at least tacit coordination by attacking me almost simultaneously in multiple fora and from multiple angles. While I resist ascribing intent unless it is particularly clear, I think the sum total of the

information regarding Ms. Cournoyer's actions and statements make it nearly undeniable that she has acted with a punitive intent (to damage me) that has sometimes been at odds with the public protective purposes of Bar discipline.

Because most of Ms. Cournoyer's activities were less than fully public, this complaint includes some portions in which the specific conduct cannot be fully identified without further investigation, even though the outcomes demonstrate a high likelihood of misconduct .

There is no question that Ms. Cournoyer played a major and instrumental role in creating the false perception of me and my practice as somehow dangerous. It appears Ms. Cournoyer has acted with intentional but concealed disregard for the ethical rules she enforces; taking my complete destruction as a goal (however acquired), she then seems to have embraced an "ends justify the means" approach to achieving it.

Not once, from the TMT Development trial forward, does it seem that she, as lead investigator, paused to evaluate the information in front of her. Instead, she seems to have used every available opportunity to promote harm to me and my practice, regardless of the truth or interests of justice.

Overview

Ms. Cournoyer, Assistant Disciplinary Counsel, describes herself as "the

attorney primarily responsible for the investigation of [my] conduct.” Dec. of Susan Courney (10/27/17), attached to the BR 3.1 Petition, at 1. I was aware of Ms. Cournoyer from interfacing with her on occasional Bar disciplinary inquiries that seemed to arise with particularly difficult clients who did not like the outcome of their brush with the legal system. I was also familiar with her from the two potentially more serious matters that arose prior to Fall 2017 – the SLAC referral and the complaint by Amy Velazquez.¹ Until October 2017, Ms. Cournoyer struck me as relatively understanding and supportive where there was no evidence of harmful intent, as is the case in any disciplinary matter I have ever discussed with her or anyone else at ODC.

From October 2017 forward, my sense has been that Ms. Cournoyer is intent on damaging me overall, without respect to the true facts in a given matter. The apparent turning point was the TMT Development trial, which Ms. Cournoyer (for unknown reasons) attended in the galley. She approached me during a break and, in a surprisingly harsh tone, presented an unexpected subpoena for my trust account (which I signed without concern).

¹ I do not include the matters involving Deborah Charpentier or Robert Butler because I have come to believe that these two matters were partially manufactured by ODC to create the impression of a multitude of disciplinary problems. Further, these two matters have an unusual relationship to the two former friends who would become my primary accusers, as discussed elsewhere. Laura Roach was the source of Robert Butler’s referral to me in June 2017, and Morgana Alderman would have been the last person to access the fee agreement with Ms. Charpentier that is now missing.

The apparent significance of the TMT Development trial has caused me concern with regard to the potential that ODC, perhaps beginning with Ms. Cournoyer, became involved at the behest of either Bonnie Richardson or her client, Vanessa Sturgeon (president of TMT Development). Given that the assault on my reputation in *The Portland Tribune*, the involvement of Beth Creighton, the stalking order case against me, and my arrest are all tied to Ms. Richardson and/or Ms. Sturgeon, as is the involvement of my ex-wife and her attorney, not to mention that false allegations by Laura Roach made to Ms. Sturgeon's company stand as the initial negative action against me; I am concerned that Ms. Cournoyer may have facilitated wrongful use of the attorney disciplinary process to accomplish private punitive goals irrespective of the public interest. Whose goals is besides the point; it appears there was no urgency in ODC's investigation of the unremarkable complaints against me – including the SLAC complaint – until the urgency was triggered by contact with the various private interests indicated above.

On October 4, 2017 – the day after the TMT trial and the same date on which Ms. Creighton filed a stalking protective order (SPO) case against me – Ms. Creighton informed me of a sudden decision to fast-track my case and plunge into seeking permission to request (10 days later) my immediate suspension from the practice of law under BR 3.1. My response, which is available online, aptly expresses my utter shock and overall disbelief that ODC could actually regard me as

a threat to the public. In general, I stand by my intuitive analysis at that early date.

With few exceptions, lateer-discovered evidence has only born out the reality of a coordinated assault against me. Whatever others may find easiest to believe, I know – without question – that I did not engage *any* conduct worthy of the extremely punitive attacks from ODC that began following that letter. That Ms. Creighton (for Ms. Alderman), Ms. Banister (for my ex-wife), and Ms. Richardson (for Ms. Sturgeon) all began or intensified their attacks on me at the same time is not a conspiracy; it is fact. The question is whether their actions were ethical and their goals legitimate. The evidence shows they were not, and Ms. Cournoyer played a significant and truly instrumental role in accomplishing the

Unethical Conduct in Declaration to Support BR 3.1 Suspension

Along with Mr. Chourrey, Ms. Counroyer provided a declaration in support of my BR 3.1 suspension. Ms. Courneyer's declaration consists largely of assertions that are, at best, derived from compounding and questionable inferences from documentary evidence. Much like Mr. Chourey, Ms. Courneyer's statements in support of the BR 3.1 petition appear crafted to bury any potentially exculpatory information and to cast even the most outrageously defamatory statements with a veneer of credibility and the shield of her presumed absolute civil immunity.

For example, Ms. Cournoyer characterizes me as “romantically interested” in

my client, Heather Leonard, without any apparent evidentiary support. She then states that I “hired Leonard to work” in my office, misleadingly omitting crucial facts (with indisputable documentary evidence to support them), which creates a wholly false impression. Aside from the absence of evidence to support the assumption of “romantic” engagement (in fact, no such engagement existed), an review of the actual evidence (readily available to Ms. Cournoyer for months prior to her declaration) demonstrates that Ms. Leonard sought the position when her predecessor suddenly quit on the eve of a trial. Ms. Leonard lobbied me hard for the position and I needed immediate help (plus knew she would struggle to pay her legal fees without working a portion of them off). Those factors drove the hiring decision, which I made only after I called the Bar’s ethics hotline to insure I understood the ethical considerations and would not violate the RPCs. All of that is documented and was explained to Ms. Cournoyer (with citations, which her declaration generally lacks) well before the BR 3.1 petition was considered. In this and many other instances, the omission of crucial information produces what can only be understood as an intentionally misleading statement of events. Such statements violated RPC 3.3(a)(1) explicitly and/or by omission. *See In re Obert*, 336 Or 640 (2004).²

² This misleading style of relaying the facts continues with regard to Ms. Leonard, such that Ms. Cournoyer creates the impression of obsession without noting the facts explaining my conduct, which were offered immediately, are backed by documentary evidence (unlike Ms. Cournoyer’s version) and have been articulated clearly and consistently throughout the investigation. For example, I missed the email from Ms.

Ms. Cournoyer similarly misrepresents my comments and reasoning with regard to SLAC. *See id.* at 3-4. She completely fails to note my primary considerations and arguments, all of which were regularly and expressly stated to the SLAC “monitor,” Kevin Lucey, in the emails from which Ms. Cournoyer purports to derive her information. Specifically, my initial contact with SLAC grew out of an incident related to my mother’s terminal illness (and was not, in fact, alcohol related). When asked to complete a drug and alcohol screening by the committee, I did so and no alcohol was found in my system.³ However, I determined (after attending one of

Velazquez – who did not communicate by telephone or regular mail until significantly later – and, accordingly, most (perhaps all) of my post-representation emails to Ms. Leonard were efforts to *protect her interests by recommending that she obtain counsel. But see* Cournoyer Dec. at 2. Similarly, Ms. Cournoyer misleadingly omits the fact that I sent invoices to Ms. Leonard *in response to her demand* for an incredible sum as wages for a few hours work (despite her much longer tenure as a client and the significant balance due). I attempted to collect the money and, in context, it should be obvious that my purpose was to head off further unjustified claims that would suggest I wrongfully withheld funds. Instead, Ms. Leonard was effectively *overpaid* because she avoided paying her legitimate debt by acting as if I had some type of obsession with her. In fact, she stopped working for me without notice (actually, she called me one night at something like 3:30a.m., and then sent text messages when I did not answer). I never spoke to Ms. Leonard about why she quit because she demanded I immediately cease contact (perhaps to avoid paying her bill). Tellingly, Ms. Leonard herself has apparently never lent her support to the ODC investigation or proceeding against me – what Ms. Cournoyer attests is simply unsupported and false.

³ Ms. Cournoyer fails to mention the absence of alcohol in my system. Instead, she highlights a subsequent test measuring enzymes reflecting liver function that is often (but not exclusively) associated with binge or chronic alcohol consumption. I noted, in emails available to Ms. Cournoyer as well as my letter to her and at both subsequent hearings, that I have been on a prescription since 2011 that affects liver function. No one affiliated with the Bar has yet been able to state whether such

the meetings requested by Mr. Lucey – not zero as Ms. Cournoyer reports) that compliance with the abstinence and meeting requirements may well exacerbate the true issues that threatened to destabilize me emotionally and cause risk to clients. Those real issues that I faced (and for which OAAP eventually arranged an OLAF grant that I was unable to find a provider to accept) included recovering from extreme trauma, fearing for the safety of my children, and simultaneously coping with loss of a major emotional support (my mother, whose last birthday was November 1, 2016 before she passed away in early 2017) while relocating to a new city and establishing myself in practice after nearly a decade in academia and related positions. No one is prepared for that kind of stress. Rather than identify the causes and take appropriate actions (*e.g.* impose monitors on my practice, perhaps), Ms. Cournoyer seemed to smell my weakness and coordinate an attack.

The factors I identify above are the factors that I identified as my greatest challenges at the time. When writing to Mr. Lucey, I cited a recent psychological assessment, my own careful reading of relevant literature, introspection, and the advice of several prior private therapists (including one since returning to Oregon). All strongly indicated to me that my primary need was developing appropriate social support. SLAC's recommendations threatened to strip me of that support, leaving me

medication may create a false positive test result. Based on my lay research, it appears not only possible but likely to create such false positives. I made that point to Mr. Lucey and again in my letter to ODC. Ms. Cournoyer omits all of this.

extremely vulnerable to precisely the type of loneliness that has since been declared an epidemic by major national health institutions. Quite literally, I was concerned that following SLAC's stubborn demands (there was no meaningful response to my multiple requests for an evaluation regarding the need for trauma-relevant therapy).

Again, despite the extensive support of the above facts in the documentary evidence, Ms. Cournoyer's BR 3.1 declaration fails to even note the major life challenges I was facing – including my recent escape from life-threatening violence, the loss of and risk to my children, and the death of my mother – and utterly ignores my well-reasoned effort to find assistance that would actually assist me rather than leave me more fully alone and, thus, at risk of severe depression and perhaps even suicide. Apparently indifferent to actual evidence, Ms. Cournoyer loosely connects a few facts to her apparently free-form picture of a raving lunatic obsessed with alcohol and defiantly opposed to the public interest. Given my dedication to education, the environment, and the rights of the oppressed, the portrait in the BR 3.1 declaration is very clearly not me, even if one does not know what to make of the unsupported alcoholism claims.

The evidence Ms. Cournoyer had in front of her does not support the monolithic story she attested to. While some of her assumptions may be only arguably without any foundation, it is beyond question that she failed to even acknowledge extensive evidence that is directly contrary to her allegations. Leaving

out such exculpatory evidence, as with the issues concerning Ms. Leonard, constitutes misrepresentation as wrongful and misleading as a direct false statement. Accordingly, Ms. Cournoyer again violated RPC 3.3(a)(1) explicitly and/or by omission. *See In re Obert*, 336 Or 640 (2004).

The repetitive misuse of evidence and consistent effort to portray me in a falsely negative light constitutes a very serious form of misconduct. *See e.g. In re Conduct of Huffman*, 331 Ore. 209, 229 (2000) (“[t]his court views a lawyer's intentional misrepresentation to a court as serious misconduct because courts must be able to rely on the candor, honesty, and integrity of the lawyers who appear before them”) (citation omitted). As alleged Ms. Cournoyer's conduct in this matter, especially through her declaration to support the BR 3.1 petition, implicates RPC 3.3(a)(1), (3), (4), 8.1(a) (1), (2), 8.4(a)(1), (2), (3), and/or (4).

There are further specific indications of such conduct in the declaration. For example, on page 5 of her declaration, Ms. Cournoyer states, “Charpentier and Long did not sign a written fee agreement providing that the advance fee was earned upon receipt.”

This apparent statement of fact, given as evidence under oath, rests either on an unjustified assumption that I am (and have consistently since early 2017 been) lying, or it demonstrates deliberate misrepresentation. I have consistently expressed that my notes reflect discussing the fee agreement with this client (Ms. Charpentier),

that my memory is that a written fee agreement existed, and that all circumstantial evidence indicates such a written fee agreement existed. Further, it was my routine practice to use the form earned-on-receipt fee agreement that I created in early 2016 with essentially every client who did not require a contingency agreement.

I was unable to find the agreement in July 2017 when, six months after representation ended, ODC seemed to re-open the matter of this client's prior (and I thought resolved) complaint. Nonetheless, it was clear to me that such an agreement had existed because the rate was unusual and, therefore, would have been stated on the fee agreement, which Ms. Alderman would have used in creating an invoice for Ms. Charpentier (of which I retained an electronic copy).

While it is very unusual (indeed, unprecedented) for me to be unable to retrieve a fee agreement for any client on demand, Ms. Alderman's involvement in my practice and a secretive scheme to promote my ex-wife's custody interests at exactly the time when Ms. Cournoyer re-opened the Charpentier investigation may offer the explanation. At the very least, the matter warrants in-depth investigation rather than the smug but unsupported conclusion advanced by Ms. Cournoyer.

Ms. Cournoyer's conduct appears designed to mislead the Supreme Court in this matter. She did not write that no fee agreement could not be found. Instead, she attested under oath that no fee agreement ever existed. She cannot possibly have evidence to support that conclusion, and it is not a fact she could verify. Further, it

ignores the circumstantial evidence that does exist.

Ms. Cournoyer should have been acutely aware of the questions surrounding the Charpentier matter. However, her declaration does not suggest uncertainty; it suggests that Mr. Long was a repeat offender by employing a misleading juxtaposition.

Despite prior exchanges with me that included copies of my standard fee agreement and my discussion about how such fee agreements operate (*see generally* Formal Opinion 2005-15), Ms. Cournoyer made no mention of these highly relevant and explanatory facts. Instead, she casts the \$285 refund check that I mailed to Ms. Charpentier as a clear RPC violation before stating: “Long has previously been admonished (in December 2016) for three trust account overdrafts.” Cournoyer Dec. at 6. While not a false statement, this juxtaposition conveys the insincere and aggressive approach Ms. Cournoyer takes throughout.

The above statement about my trust account is misleading. It is technically correct, but not relevant in the way that Ms. Cournoyer’s placement suggests. The three prior overdrafts were for erroneously writing two checks on the IOLTA, which had no money in it (and thus no client property) any of the times in question, and because one of the overdrafts then prompted the bank to assess an overdraft fee that produced a third overdraft notification. The checks were to the Oregon Secretary of State and to the Oregon State Bar lawyer referral service. They show Mr. Long’s

ADHD and need for clerical assistance, which he then acquired. As Ms. Cournoyer almost certainly knew when she made the misleading statement, Ms. Alderman became that assistant. Then, it appears, she acted in a manner that literally *caused* the Bar's investigation of the Charpentier case.

Ms. Cournoyer provided a half-truth, placed to give a false impression. Because an omission may be considered a false statement or misrepresentation, *see In re Obert*, 336 Or 640 (2004), Ms. Cournoyer's statements constitute violations of the RPCs requiring truthfulness. She had access to the documents (not provided to the Supreme Court) demonstrating that my mistakes had zero impact on clients and were simply a matter of accidentally writing checks on one unmarked set of Wells Fargo counter checks (IOLTA) rather than the other (personal account). If there had been client money in the IOLTA, it is not clear that either the Bar or I would have ever discovered the mistake. It was only because very close to *all* of my clients signed earned-on-receipt fee agreements, thus *prohibiting* me from placing their funds in trust, that an overdraft occurred at all. *See* Formal Opinion 2005-151. Ms. Cournoyer makes no mention of this mountain of exculpatory facts demonstrating my good faith, nor does she mention that I discussed both the violence and child-snatching by my then-wife and the imminent death of my mother as reasons I may have been absent minded. There is not the slightest hint of malicious intent on my part. Instead, I was asking for help – the help that would soon be refused by SLAC. It

is for that Ms. Cournoyer seems to condemn me. She portrayed me as a thief with absolutely no actual evidence to support the idea, and she it is impossible to conclude that did so other than intentionally.

Ms. Cournoyer similarly provides a sufficiently misleading narrative to raise ethical questions in discussing the Robert Butler matter.⁴ Ms. Cournoyer completely omits my immediate statements that Mr. Butler's initial post-intake letter was very confusing because it appeared to both request termination of our relationship and simultaneously offer me additional work that Mr. Butler presented as a portion of what he had hired me to work on. Further, and relevant in other complaints as well, Ms. Cournoyer (and thus, Mr. Chourey) clearly had examples of my invoices to Mr. Butler and Ms. Charpentier. In Mr. Butler's case, I had initially charged him for just over two hours' work, writing off all time spent once it was clear he perceived a problem.

Ms. Cournoyer was amazingly engaged with each detail of that complaint – more so than any other I have known of any assistant disciplinary counselor to be in any such matter – so it was surprising to read her statement that I “did not refund any portion of the advance fee for over 12 weeks, and then only after Butler filed a small

⁴ Oddly, and contrary to ODC's portrayal, Mr. Butler offered me additional work the last time I saw him, when he stopped by my office to pick up a check for the remainder of his full refund. He also advised me on that day that he had referred me to a friend who needed legal work. Equally strange, Mr. Butler called me out of the blue within the last month. He left a message on my voicemail expressing concern regarding my suspension and offering to help me.

claims action against ” me. Cournoyer Dec. at 6. The fact as Ms. Cournoyer knows, are as follows.

Two weeks from the time Mr. Butler first met with me, I came to understand that his follow-up letter was also intended to terminate representation and obtain a refund – he also offered me a portion of the work he had already agreed I should perform and stated he would make payment. Ms. Coournoyer was aware of this situation as it developed. She was also aware that Mr. Butler filed a Bar complaint, another form of administrative complaint, and a small claims actions merely *eight days* after clearly terminating representation and requesting a refund. I did not even have the time I spent on his matter tallied in that short a period, nor had I accounted for the confusion regarding his quasi-request to terminate and refund.⁵

As Ms. Cournoyer knows, I then delayed payment out of uncertainty whether conveying a partial refund while his complaints were pending was potentially unethical. As soon as I understood, through Ms. Cournoyer, that it was acceptable, I attempted to mail a check to Mr. Butler. The address was erroneous and the check came back to me.

At that point I just met with Mr. Butler in conjunction with his small claims

⁵ Mr. Butler also offered me work and pay the day he picked up his final refund check from me. Further, he called me in October 2018 (weeks ago) and offered to “help” me with the Bar’s case against me. I did not pick up the phone or return the call. Unless he is suffering dementia, Mr. Butler has behaved so erratically that I have questioned whether his sole purpose was to create a Bar complaint (perhaps as a favor to Laura Roach).

case and immediately offered to settle for the full amount requested, which included \$880 in earned fees.

I made no money from my interactions with Mr. Butler and acted in good faith – indeed, in close communication with Ms. Cournoyer herself – the entire time. Ms. Cournoyer's support of claims against me on the basis of this particular case appears frivolous and involves potential misrepresentation through half-truth and omissions.

In discussing the “complaint” by Beth Creighton⁶ that became the official impetus for the BR 3.1 petition, Ms Cournoyer states: “Alderman's breaking off contact with Long appears to have been deeply personally painful for him.” Cournoyer Dec. at 8. This statement utterly ignores the extreme violence I endured, Ms. Alderman's role in helping me (as a friend) through my mother's death (she had similar tragedy), and – most importantly – Ms. Alderman's role in caring for my children and her knowledge of their importance to me. *Ms. Alderman deceived me for at least six weeks in order to destroy my custody rights and hand three young children to a known violent child abuser (my ex-wife).* Those points are clearly proven in documentary evidence, and they are what caused my emotionally intense reactions. I trusted Ms. Alderman and, for that reason, my children now face a dramatically increased risk of attempting suicide as teens (my ex-wife's first attempt was at age 13), personality disorder, and other life-long negative effects.

⁶ Ms. Creighton did not actually file any form of written complaint.

Readily apparent in the materials that Ms. Cournoyer claims to have reviewed and in my prior writings to Ms. Cournoyer regarding the matters discussed herein, I was dealing with trauma related to domestic violence and the abuse of my children, who had been unjustifiably taken from me. These symptoms of trauma were played upon and exacerbated by Ms. Roach (about whom perhaps I should have known more) and, to my complete surprise, Ms. Alderman. Ms. Alderman came to work with me at the suggestion of our mutual friend, and she told me she decided to go to law school because of working with me. She also spent most days and many evenings with me by choice, especially when my children were around. She had seen my ex-wife's brother's bizarre visit to Portland (in which he vowed, in November 2016, to see me disbarred – his letter to that effect, written to my office mate, was entered into evidence at the BR 3.1 hearing), and she knew of my ex-wife's violence. I have no idea why or when Ms. Alderman decided that it was appropriate to sell my children to their abuser, but I do know she moved into an apartment she could not possibly afford on October 7, 2017.

Neither Ms. Cournoyer nor any other attorney complained of herein seems to find that relevant, nor do they find it odd that I lost all rights to my children exactly as the OSB became involved. Prior to that, I had a restraining order against my ex-wife due to her demonstrated violence, and her five sets of allegations failed. In fact, when she made her last allegations to the Florida Department of Children and Families, that

agency called me into their office and offered to have their agent testify on my behalf (which occurred in February 2015). *See generally* Long v. Long, 2014 DR 000994 (Flagler County, FL).⁷

If I have to choose between Bar membership and fatherhood, there is no choice. However, I have been a productive contributor to the legal world for 18 years, including the most recent while I have been unable to practice. I have educated countless law students, published 20 significant works of scholarship, and spoken across two continents. I see no reason I cannot practice law and be a father. It appears that Ms. Cournoyer and those working with her, however, decided that my ex-wife's story fits better with their theoretical conceptions of "abuse" and gender, so they took sides without asking questions. The pain they see is not about Ms. Alderman; it is about the failure of OSB to honor its mission or my children.

By presenting my interaction with Ms. Alderman as a product of unexplained "personal pain," yet leaving out the extent of pre-existing friendship and exaggerating the purported risk, Ms. Cournoyer has begun to fashion the bizarre and troubling character "Long," who has nothing to do with who I actually am.

I make no effort to excuse my very strong language expressing anger and even desperation toward Ms. Alderman and/or Ms. Roach in text messages. I did that, and

⁷ It has now been over a year since I have seen my children. The three-to-four Oregon matters related discussed elsewhere are the primary, and probably sole, reason for such separation.

I regret some of the text messaging. I have learned how easily such strong language can be misinterpreted, how quickly the OSB can distribute the worst of my words, and how dangerous emotion can appear to third parties. But, the case against me is founded on misrepresentation and misleading omissions.

Ms. Cournoyer's discussion of the text messages in her declaration is just another example of the misleading nature of the case. While she seems to suggest the messages may constitute witness tampering, there is no evidence that I discouraged anyone from testifying. However, I did face threats for testifying against TMT, as did another of my witnesses. Those threats are documented and I can demonstrate them on request. Further, another of my witnesses disappeared between the first and second day of the TMT hearing. The clear and consistent statement in my text messages is that I did not hit Laura Roach, and that Ms. Alderman and Ms. Roach would know that to be true. I could not understand why they would not agree to state the truth after having behaved as my close friends throughout my children's visit in summer 2017. Now I do understand, and I would point primarily to another woman whom I never hit (despite her allegations) even though she threatened my life more than once (my ex-wife). For present purposes, however, it is Ms. Cournoyer's access to all the available information as lead investigator for OSB that matters. She failed, utterly, to take public protective action and, instead, seems to have invented a story designed to "destroy" me while hiding behind the presumed good faith of her

position and its absolute civil immunity.

Ms. Cournoyer must have known much of the truth unless she intentionally maintained ignorance by failing to investigate. Yet, her declaration weaves between others' words to produce false images of me without appearing as blatantly and brutally defamatory as the declaration really is.

Some of Ms. Cournoyer's statements (such as that Ms. Alderman "observed Long drink hard liquor at lunch every day" and "smoking methamphetamine multiple times throughout the day at the office, every day") are not only so extreme that it is nearly impossible such conduct would not have been noticed by clients, the staff that took over when Ms. Alderman left, or others, but they are also contradicted by the statements of the person cited as the source (Ms. Alderman in this case). That, as clearly as anything, indicates the extreme nature of the misconduct involved in the matter(s) against me.

I do not know why Ms. Cournoyer would behave as described, but her declaration is undeniably a gross misrepresentation of the evidence with the apparent purpose of damaging me quickly, beyond repair, and completely. Ms. Cournoyer's statements either contradict evidence available to her or string together conjecture and misrepresentation by others. Either way, nearly the entire declaration is unethical.

Unethical Investigative Techniques to Generate Claims

Under the circumstances, it has not been appropriate or reasonable for me to obtain and evaluate full details on Ms. Cournoyer's interaction with my clients. However, it is clear to me from the letters that she provided to my clients, discovery information (limited though it was), and additional research that Ms. Cournoyer's approach likely encouraged, facilitated, or even solicited additional complaints and (especially, presumably as an incentive to complain) Client Security Fund (CSF) payments.

Although it appears she worked closely with Mr. Chourey in many respects, Ms. Cournoyer signed the letters to my clients notifying them of the custodianship in early January 2018 and followed up with those few who had not responded by the end of the month. In her letters Ms. Cournoyer invited clients to contact her, in particular, to discuss their questions or issues. Discovery evidence also shows that mail from my clients that was directed to OSB generally was then re-directed by hand to Ms. Cournoyer specifically. In itself, this is not problematic. However, with some additional facts noted, the likelihood of unethical conduct by Ms. Cournoyer, apparently in at least tacit conjunction with Mr. Chourey, becomes very high.

While the Bar will note a shockingly high number of complaints against me, the true story underlying this case appears to lie in more fine-grained data about the

complaints. First, while it appears there are technically 23 open complaints filed against me, only two of them pre-date Ms. Cournoyer's resurrection of the Charpentier complaint in July 2017. Once those three complaints and the anomalous Butler complaint pre-date the eagerly embrace Creighton complaint that was employed to initiate the BR 3.1 proceeding. That means that Ms. Creighton kicked off a stunning run of 19 complaints over the last 10 weeks of my practice or after its seizure.

Stated differently, only four complaints pre-date the eviction trial commenced by TMT development and only two that pre-date the involvement of my ex-wife with Laura Roach (who was the source of Mr. Butler's supposed referral to me in late June 2017) and Morgana Alderman (who is the last known person to have handled the Charpentier fee agreement that is now missing. That means 21 of 23 open complaints against me were initiated after Ms. Roach and Ms. Alderman joined with my ex-wife in an explicit "secret alliance" that engaged Bonnie Richardson no later than September, and Ms. Cournoyer no later than early October, when the floodgates opened to complaints as Ms. Creighton emailed Ms. Cournoyer semi-formally to trigger a surprisingly swift mobilization to bury me in a BR 3.1 proceeding and a ceaseless barrage of media coverage and new ethical complaints. On the surface, and in light of the relative net worth of assets controlled by the various players, it would not be unreasonable to suggest that the Bar and Ms. Creighton created the

disciplinary fiasco engulfing me as a means demonstrating support for those on the other side of the TMT eviction case.

Most disturbingly, Ms. Cournoyer apparently oversaw approximately 8-10 instances from December 2017 through at least June 2018 in which clients filed CSF claims before or simultaneous with filing disciplinary complaints. At least four such claims have been paid out quickly and well before any issues concerning alleged ethical lapses by me are tried in any form. Further, two other CSF claimants (with apparent encouragement) have stated claims representing essentially their entire year-plus relationship with me. In both cases, I stand solidly behind my work and can attest that the clients were both objectively well-served and subjectively pleased with my services. The large number of ethical complaints, therefore, appears more related to the number CSF filings and payouts than to any evidence or fact pertaining to my conduct.

It appears that Ms. Cournoyer's personal touch in diverting all of my clients' inquiries to herself had the "magical" effect of providing payout or promise thereof from CSF funds to a large number of former clients who were injured by the suspension (not my conduct). Those incentivized complaints, then, would be advanced as the supposed evidence of my purported misconduct. The vast majority, if not all, of those clients expressed satisfaction shortly before the Bar's assault upon my reputation and practice. It would seem that if the media explosion fueled by the

Bar was insufficient to destroy their gratitude and loyalty, the lure full refunds while retaining the benefits of my services broke down their resistance.

Stated explicitly, Ms. Cournoyer appears to have been involved in promoting Bar complaints against me by dangling the allure of CSF refunds. Ms. Cournoyer authored the letters sent to my active clients went on January 3, 2018. In that letter, she stated: "If you believe that you have funds or other property in Mr. Long's possession, please contact me directly." It appears that some clients did so.

Stu Beutler, for instance, sent an envelope with postage for February 5 and February 9, 2018. The addressee was originally the Oregon State Bar, but that information was crossed out. In its place, someone wrote Ms. Cournoyer's name. It is not clear who or why.

Mr. Beutler filled out a CSF claim form with signature dated January 26, 2018. He sought a return of the entire \$1,200 he gave me for the work he requested. In his claim form, he states that I did no work for him. That, however, is not true. In any event, it appears that his CSF was paid out by the end of June 2018.

It appears likely that Ms. Cournoyer may have violated RPC 3.4(b). Further, depending on the nature and content of Ms. Cournoyer's communications to clients-turned-claimants, she may have violated other RPCs. Among these are RPC 8.4(a)(2), (3), (4), and/or (5).

Mr. Chourey's conduct is also relevant here, and it should be noted that Ms.

Cournoyer's conduct is likely unethical in much the same way that Mr. Chourey's is alleged to be in these matters. Further investigation is warranted.

Additional Matters

Ms. Cournoyer's delight in the attack upon me was apparent when, in my office with police escort to take over my practice on December 22, 2017, I and a witness heard her predict that my car would be seized. I had no reason at the time to expect that action. However, it occurred days later and, the same day, I received a letter of inquiry regarding parking tickets from ODC's Nik Chourey. Why Ms. Cournoyer would have information leading her to predict the seizure of my car in the normal course, I have no idea.

It is nearly impossible to imagine that Ms. Cournoyer would have taken such an extremely hostile approach despite my claims to trauma from violence and loss of my children if I were female or if I had been happily married again. Therefore, Ms. Cournoyer's conduct, which was plainly meant to be intimidating at the October 2-3, 2017 trial and again in her October 4 letter and December 22, 2017 takeover of my office (with police escort) may be understood as intimidation because of my sex and/or marital status. She was particularly interested in damaging me, and scaring me into leaving Oregon practice rather than fight, because I presented as a 40-something divorced male. Thus, she may have violated RPC 8.4(a)(7).

Finally, for each possible RPC violation discussed above, Ms. Cournoyer also appears to have violated RPC 8.4(a)(1). A number of the apparently (or potentially) unethical acts by Ms. Cournoyer involved at least some degree of misrepresentation or dishonesty. *See generally* In re Conduct of Carpenter, 337 Ore. 226, 234 (2004) (discussing the standards for such conduct under DR 1-102(A)(3)); *see also* In re Klemp, 363 Ore. 62, 100 (2018) (*citing* Carpenter to interpret RPC 8.4(a)(3)). All such acts would therefore violate RPC 8.4(a)(3) if they reflect negatively on her fitness to practice law.

Finally, although not clearly improper, Ms. Cournoyer was the primary contact person at OSB for my ex-wife's attorney, Kim Banister, as shown by an email chain between them. That discussion produced the last cause of complaint that should have been tried in August 2018. The complaint, while perhaps not technically improper in and of itself, is an unusual argument that my inability to pay child support at some times constituted a violation of the RPCs. What is particularly odd is that ODC was formulating this argument while also generating information to petition for my immediate suspension, which would render me unable to pay for a longer period of time. This type of intentional creation of a catch-22 is clearly atypical in OSB complaint investigation – and there was not even a complaint on the topic.

January 14, 2019

E. Andrew Long
610 SW Broadway, Suite 510
Portland, OR 97205
VIA US MAIL AND EMAIL (andrewlongpdx@gmail.com)

**Re: Amber L. Bevacqua-Lynott (File No. 1801736), Nik T. Chourey
(File No. 1801737), and Susan R. Cournoyer (File No. 1801738)**

Dear Mr. Long:

I am writing to address your inquiries sent to the Oregon State Bar, regarding Chief Assistant Disciplinary Counsel Amber L. Bevacqua-Lynott, Assistant Disciplinary Counsel Nik T. Chourey, and Assistant Disciplinary Counsel Susan R. Cournoyer. My review is limited to Disciplinary Counsel staff's actions, and whether those actions violated the Oregon Rules of Professional Conduct.¹


Based on my independent review of the allegations in your complaint and the record, I do not find probable cause to believe that misconduct has occurred, as required by Bar Rule of Procedure 2.6(f)(1). The gravamen of your complaint is that disciplinary staff advanced unjustified and unsupported claims against you, interfered with discovery, and relied on false evidence and misrepresentations, in both the BR 3.1 hearing that resulted in your interim suspension and the trial proceeding that resulted in your disbarment. As an initial matter, the State Professional Responsibility Board (SPRB) authorized the filing of the BR 3.1 petition and the formal complaint. Further, most of these allegations are directly or indirectly rebutted by findings made by the Special Master in the BR 3.1 proceeding and the trial panel at trial. In addition, virtually all of your claims regarding the arguments, evidence, and procedure at trial either were or could have been raised to the trial panel, and can be raised on appeal to the Oregon Supreme Court; that appeal currently is proceeding in due course. Your claims regarding the BR 3.1 proceeding either were or could have been made to the Special Master, and then appealed to the Supreme Court, which affirmed the Special Master's decision.

¹ As conveyed in my letter dated December 10, 2018, I have no authority to consider the allegations against the two private attorneys, Bonnie Richardson and Beth Creighton, mentioned in your inquiries.

Because there is not probable cause to believe that misconduct occurred, I am dismissing your complaint. However, if the Supreme Court on appeal makes findings and conclusions adverse to the Oregon State Bar that would sustain these or other claims against Disciplinary Counsel's office, you are free to submit another complaint at that time.

Should you wish to appeal my decision to the SPRB, you must notify me within 14 days.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carolyn Alexander".

Carolyn Alexander
Chair, SPRB
Oregon State Bar
PO Box 231935
Tigard, OR 97281-1935

cc: Amber L. Bevacqua-Lynott, Nik T. Chourey, Susan R. Cournoyer
OSB Client Assistance Office

April 15, 2019

E. Andrew Long
610 SW Broadway, Suite 510
Portland, OR 97205
VIA US MAIL AND EMAIL (andrewlongpdx@gmail.com)

**Re: Amber L. Bevacqua-Lynott (File No. 1801736), Nik T. Chourey
(File No. 1801737), and Susan R. Cournoyer (File No. 1801738)**

Dear Mr. Long:

At a meeting held on April 13, 2019, the State Professional Responsibility Board (SPRB) thoroughly reviewed your appeal of my dismissal of your inquiry pertaining to OSB staff Amber L. Bevacqua-Lynott, Nik T. Chourey, and Susan R. Cournoyer. The SPRB concluded that there was no violation of the Oregon Rules of Professional Conduct.

As a result of the SPRB's decision, your inquiry has been dismissed and the file will be closed. There is no further appeal from this decision.

Sincerely,



Carolyn Alexander
Chair, SPRB
Oregon State Bar
PO Box 231935
Tigard, OR 97281-1935

cc: Amber L. Bevacqua-Lynott, Nik T. Chourey, and Susan R. Cournoyer
OSB Client Assistance Office



Oregon State Bar

Date

Name
Address

Re: Custodianship over law practice of Lori Deveny

Dear [Name]:

I understand that you are a former client of former Portland attorney Lori E. Deveny. The purpose of this letter is to inform you about developments concerning the closure of Ms. Deveny's law practice and the location of your legal file.

On July 26, 2018, the Oregon Supreme Court issued an order accepting Lori Deveny's resignation from the practice of law. As a result, if you have any pending legal matters you may need to hire another attorney to handle your legal matters. If you do not know the name of an attorney to consult, you may contact the Oregon State Bar's Lawyer Referral Service at 503-684-3763 or 1-800-452-7636, during regular business hours. The Bar recommends that you contact another attorney immediately so that all of your legal rights can be preserved.

The Court's order accepting Ms. Deveny's resignation designated an attorney as the recipient of Ms. Deveny's client files; however, that attorney did not receive Ms. Deveny's files. On October 25, 2018, the Multnomah County Circuit Court assumed jurisdiction over Ms. Deveny's law practice. The Multnomah County Circuit Court appointed the Oregon State Bar as custodian of Ms. Deveny's law practice, including all legal files, client trust funds and other property.

The Bar has your file available and can transfer it to you if you would like to have it. If you would like your file, you need to fill out the enclosed form that authorizes us to send your file to you and provides us the necessary contact information. Please complete, sign and return the form in the enclosed self-addressed envelope by no later than June 1, 2019. It is imperative that you act promptly so that all your legal rights will be preserved. If you do not respond to this letter, the bar will

Ex 10

destroy your file on June 1, 2019. The Bar and has engaged the services of the Oregon State Bar Professional Liability Fund to assist in file transfers.

If you believe Ms. Deveny converted your funds, you may consider submitting an application for reimbursement to our Client Security Fund. The Fund was created in 1967 to help reimburse clients who lose money or property as a result of dishonest conduct by their lawyer. Oregon lawyers developed the program and fund it with a mandatory assessment paid by all active members of the Bar. You will find additional information and application materials at www.osbar.org/csf.

If you believe you might have a claim with respect to the quality of Ms. Deveny's legal services, you may wish to contact another lawyer about the merits of such a claim or pursue it yourself. You or your new attorney may contact the Professional Liability Fund, Post Office Box 231600 Tigard, Oregon 97281-1600, if appropriate. The PLF provides professional liability (malpractice) coverage to most attorneys in private practice in Oregon. You can also reach the PLF and obtain a claim form by calling 503 639-6911.

If you believe that you have funds or other property in Ms. Deveny's possession, please contact me directly at the phone number or email address listed below.

Please feel free to contact me if you have any questions.

Very truly yours,



Amber Hollister
General Counsel
(503) 431-6312
1-800-452-8260 (ext. 312)
gc@osbar.org

Enclosure

FILED

18 OCT 25 PM 2:33

CIRCUIT COURT
FOR MULTNOMAH COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

18CV48680

In the Matter of the Appointment
of a Custodian for the Law Practice of

LORI E. DEVENY

Case No.

**EX PARTE
PETITION FOR THE
APPOINTMENT OF CUSTODIAN
OF A LAW PRACTICE**

Pursuant to ORS 9.705, *et. seq.*, Petitioner, the Board of Governors of the Oregon State Bar, alleges:

1.

From September 1989 until May 2018, the affected attorney, Lori E. Deveny ("Deveny"), was a member of the Oregon State Bar, with her office and practice located in Multnomah County, Oregon.

2.

On May 24, 2018 Deveny signed a Form B resignation from the Oregon State Bar (the "Resignation"). The Resignation stated that Deveny's files would be delivered to Oregon attorney Jodie Phillips Polich. Declaration of Susan T. Alterman ("Alterman Dec.") ¶3.

3.

On July 26, 2018, Chief Justice Walters of the Oregon Supreme Court signed the Order Accepting Resignation From Practice of Law accepting the resignation. Alterman Dec. ¶4.

Ex 11

_ Verified Correct Copy of Original 10/25/2018._

1 4.

2 From and after the date of Deveny's Resignation, Deveny has failed to deliver all client
3 files and client records in her possession to Ms. Phillips Polich as required by the terms of the
4 Resignation. Declaration of Jodie Phillips Polich ("Phillips Polich Dec.") ¶2.

5 5.

6 Ms. Phillips Polich has advised the Oregon State Bar that she is not willing to accept
7 Deveny's client files and client records. Phillips Polich Dec. ¶3, 4.

8 6.

9 At this time, some of Deveny's client files and records are in the possession of the
10 Professional Liability Fund, and some client files and records remain in Deveny's possession.

11 7.

12 Pursuant to ORS 9.710, when an attorney has been disbarred or has abandoned the
13 practice, and the attorney failed to make arrangements for the orderly termination of their law
14 practice, the Circuit Court of the county in which the lawyer engaged in the practice of law has
15 jurisdiction over the law practice of the nonperforming attorney.

16 8.

17 Where the circumstances identified in ORS 9.710 exist, ORS 9.715 authorizes the
18 Oregon State Bar to petition the court *ex parte* to take immediate jurisdiction over the affected
19 attorney's law practice.

20 9.

21 ORS 9.720 provides that, where the Court finds that the assumption of jurisdiction is
22 necessary to protect the interest of clients of the affected attorney, the Court may take
23 jurisdiction over the law practice of affected lawyer to the extent the Court determines necessary
24 and shall, pursuant to ORS 9.725, appoint the Oregon State Bar to act as custodian of the law
25 practice of the affected attorney.

Verified Correct Copy of Original 10/25/2018.

10.

Because Deveny has refused to turn over all client files and client records to Ms. Phillips Polich or to any other party, there is no one responsible for Deveny's client files. No one is able to adequately protect the interests of Deveny's clients.

WHEREFORE, Petitioner prays for an Order:

1. Finding that the law practice of Lori E. Deveny is within the jurisdiction of this Court.

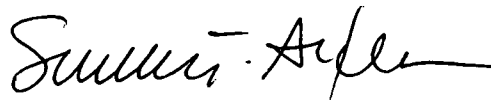
2. Finding that this Court should assume jurisdiction over Lori E. Deveny's law practice to protect the interests of the clients of the affected attorney or to protect the public interest.

3. Appointing the Oregon State Bar as custodian of Lori E. Deveny's law practice and permitting it to take possession and control of all property comprising Deveny's law practice, all in accordance with the powers set forth in ORS 9.725.

4. Granting such other relief as the Court may direct to carry out the purposes listed in ORS 9.725.

Dated this 24 day of October, 2018.

KELL, ALTERMAN & RUNSTEIN, L.L.P.



Susan T. Alterman, OSB #870815
520 SW Yamhill Street, Suite 600
Portland, OR 97204
Telephone: (503) 222-3531
Fax: (503) 227-2980
Email: salterman@kelrun.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **PETITION FOR THE APPOINTMENT OF CUSTODIAN OF A LAW PRACTICE** on:

Wayne Mackeson
Wayne Mackeson PC
714 Main Street, Suite 201
Oregon City, OR 97045

Attorney for Lori E. Deveny

☐ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each attorney's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;

☒ by causing a copy thereof to be e-mailed to each attorney at said attorney's last-known email address on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said attorney's last-known address on the date set forth below;

☐ by causing a copy thereof to be hand-delivered to said attorney at his last-known office address on the date set forth below; and/or

☐ by electronic means through the Court's File & Serve system on the date set forth below.

Dated this 24 day of October, 2018.

KELL, ALTERMAN & RUNSTEIN, L.L.P.



Susan T. Alterman, OSB #870815
Attorney for Petitioner

FILED

18 OCT 25 PM 2:33

CIRCUIT COURT
FOR MULTNOMAH COUNTYIN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

18CV48680

In the Matter of the Appointment
of a Custodian for the Law Practice of
LORI E. DEVENY,

Case No.

**DECLARATION OF JODIE
PHILLIPS POLICH**

I, Jodie Phillips Polich, declare as follows:

1. I am an attorney in good standing with the Oregon State Bar and have been licensed to practice law in the State of Oregon since 1993. I am making this declaration on personal knowledge and I am competent to testify about the matters contained herein. The following is true to the best of my knowledge, information and belief. I understand that is made for use as evidence in Court and subject to penalty for perjury.

2. I understand that, in a Form B Resignation signed by Lori E. Deveny on or about May 24, 2018, Ms. Deveny appointed me as the attorney designated to take possession of her client files. From and after May 24, 2018, I have not received any client files or related documents from Ms. Deveny.

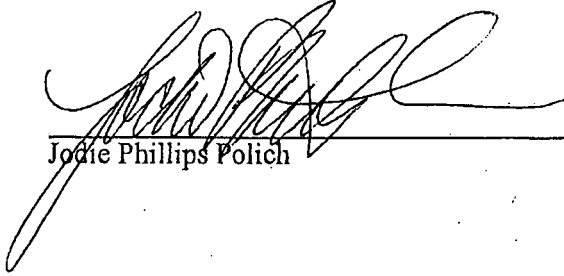
3. Attached as Exhibit 1 is a true and correct copy of an email exchange between me, Amber Bevacqua-Lynott, and Emily Schwartz, dated August 16, 2018.

4. Attached as Exhibit 2 is a true and correct copy of a fax that I sent to Ms. Bevacqua-Lynott, dated August 7, 2018.

Verified Correct Copy of Original 10/25/2018.

1 I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST
2 OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE
3 AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

4 Dated this ^{27th}~~24~~ day of October, 2018.

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Jodie Phillips Polich
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Verified Correct Copy of Original 10/25/2018.

From: Amber Bevacqua-Lynott
Sent: Thursday, August 16, 2018 5:01 PM
To: 'Jodie Phillips Polich' <jodie@phillipspolich.com>
Cc: Emily Schwartz <eschwartz@osbar.org>
Subject: RE: Lori Deveny - Case Nos. 18-10, 18-11, 18-12, 18-61 & 18-62

Ms. Phillips Polich,

Please understand that it is not my intent to offend or upset you, and I have no way to know what issues you are dealing with or the frustration that has resulted from your being designated as the custodian in the resignation, which the court accepted in its order. What I was trying to convey is that all the Bar can do is provide the public what the order states in the absence of a further order from the court. I appreciate and empathize with your circumstances, and it was for that reason that I reached out to Mr. Mackeson to see if he could, through communication with his client, Ms. Deveny, facilitate a replacement for you. I am happy to follow up with Mr. Mackeson and would urge you do the same.

In short, while I would like to assist you in transitioning from your role, the Bar has no independent ability to alter the court's order.

Verified Correct Copy of Original 10/25/2018.

Please be advised that I am preparing for trial next week but would be happy to speak with you further about this matter when I return to the office on August 28.

Amber Bevacqua-Lynott
Chief Assistant Disciplinary Counsel
503-431-6365
alynott@osbar.org

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

From: Jodie Phillips polich [<mailto:jodie@phillipspolich.com>]
Sent: Thursday, August 16, 2018 3:36 PM
To: Emily Schwartz <eschwartz@osbar.org>
Cc: Amber Bevacqua-Lynott <ALynott@osbar.org>
Subject: RE: Lori Deveny - Case Nos. 18-10, 18-11, 18-12, 18-61 & 18-62

Amber-

I left you a voice mail indicating that I expect a return call tomorrow to discuss this. I expect the OSB to stop telling people I am Lori's designee when I am not. If you can't change the Order, you also can't enforce the Order. I have NO access to Ms. Deveny's files, nor do I have her files. Any such representation by OSB is untrue.

Jodie Phillips Polich

From: Emily Schwartz <eschwartz@osbar.org>
Sent: Thursday, August 16, 2018 3:28 PM
To: Jodie Phillips polich <jodie@phillipspolich.com>
Cc: Amber Bevacqua-Lynott <ALynott@osbar.org>
Subject: Lori Deveny - Case Nos. 18-10, 18-11, 18-12, 18-61 & 18-62

Dear Ms. Phillips Polich,

Attached please find a letter from Amber Bevacqua-Lynott. The original letter will be sent to you today via first class mail. Please let me know if you are unable to open the attachment.

Thank you,

Emily Schwartz

Verified Correct Copy of Original 10/25/2018.

Discipline Paralegal
503-431-6327
eschwartz@osbar.org

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

Aug. 7. 2018 9:35AM

Jodie Phillips Polich

R's Mots. S066327 & S066649 -- 109

No. 0420 P. 1

PO Box 220119
Milwaukie, Oregon 97269
503-654-1388
Fax: 503-652-2586

**Law Offices of Jodie
Anne Phillips Polich**

Fax

To: Amber Bevaqua-Lynott	From: Davina for Jodie Phillips Polich
Fax: 503-668-4457	Pages: Cover plus 1
Phone:	Date: August 7, 2018
Re: Lori Deveny	CC: Wayne Mackeson - via e-mail Lori Deveny - via e-mail
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

• **Comments:**

Aug. 7, 2018 9:35AM

Jodie Phillips Polich

R's Mots. S066327 & S066649 -- 110

No. 0420 P. 2

**LAW OFFICES OF
JODIE ANNE PHILLIPS POLICH, P.C.**

August 7, 2018


Amber Bevacqua-Lynott
Oregon State Bar – Disciplinary Counsel's Office
PO Box 231935
Tigard, Oregon 97281-1935

Re: Lori E. Deveny – Stipulation for BR 3.1 Interim Suspension

Dear Ms. Bevacqua-Lynott:

Please accept this letter as notification that due to personal circumstances I am no longer in a position to serve as Ms. Deveny's designee or contact person as discussed in paragraph 8 of the April 27, 2018 Stipulation for BR 3.1 Interim Suspension. I would appreciate it if you would please adjust your records accordingly.

Sincerely,



Jodie Phillips Polich
Attorney

JP/jp

Cc: Lori Deveny – via e-mail; Wayne Mackeson – via e-mail

PO BOX 220119 • MILWAUKIE, OREGON • 97269
PHONE: 503-654-1388 • FAX: 503-652-2586

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **DECLARATION OF JODIE**

PHILLIPS POLICH on:

Wayne Mackeson
Wayne Mackeson PC
714 Main Street, Suite 201
Oregon City, OR 97045

Attorney for Lori E. Deveny

☐ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each attorney's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;

☒ by causing a copy thereof to be e-mailed to each attorney at said attorney's last-known email address on the date set forth below;

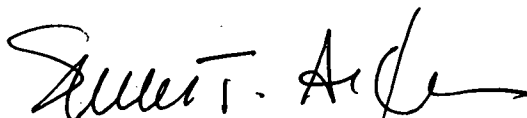
☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said attorney's last-known address on the date set forth below;

☐ by causing a copy thereof to be hand-delivered to said attorney at his last-known office address on the date set forth below; and/or

☐ by electronic means through the Court's File & Serve system on the date set forth below.

Dated this 24 day of October, 2018.

KELL, ALTERMAN & RUNSTEIN, L.L.P.



Susan T. Alterman, OSB #870815
Attorney for Petitioner

JUDICIAL DISTRICT

17 DEC 22 PM 2:06

FILED

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

Multnomah County Case No.

17CV55600

In the Matter of the Appointment
of a Custodian for the Law Practice of

ANDREW LONG,

EX PARTE ORDER APPOINTING OREGON STATE
BAR TO ACT AS CUSTODIAN OF LAW PRACTICE
(ORS 9.705 et seq.)

This matter came before this court on the Oregon State Bar's Petition for an order appointing custodian of Andrew Long's law practice and. Based upon the petition and the declaration submitted therewith, the court finds that this court has jurisdiction over the law practice of Andrew Long and that the assumption of such jurisdiction is necessary in order to protect the interest of the clients of Andrew Long or to protect the public interest. Now, therefore:

IT IS HEREBY ORDERED that this court take immediate jurisdiction over the law practice of Andrew Long, including Andrew Long's IOLTA account funds and records, all legal files, client's trust funds, clients' property and all books, records (electronic and paper), funds and property used in Andrew Long's law practice.

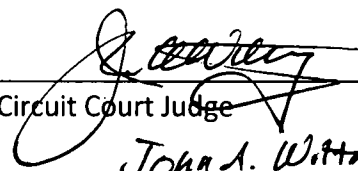
IT IS FURTHER ORDERED that the Oregon State Bar is appointed to act as custodian of Andrew Long's law practice and shall be permitted, immediately upon this appointment, to take possession and control of all property comprising Andrew Long's law practice in accordance with the powers set forth in ORS 9.725.

PAGE 1 – EX PARTE ORDER APPOINTING OREGON STATE BAR TO ACT AS CUSTODIAN OF LAW PRACTICE (ORS 9.705 et seq.)

Verified Correct Copy of Original 12/22/2017.

IT IS FURTHER ORDERED that Wells Fargo Bank and any other financial institution holding funds in an IOLTA lawyer trust account of Andrew Long shall release the funds to the Oregon State Bar upon presentment of a copy of this order appointing the Oregon State Bar as custodian of Andrew Long's practice. *Access shall be without any restriction by Mr Long & The Oregon State Bar may be assisted by The Multnomah County Sheriff's Department. The Bar shall give actual notice to Mr Long 2 days prior of order to Mr Long's office as*

DATED this 22nd day of December, 2017.


Circuit Court Judge

John A. Wittmann

Presented by:



Nik T. Chourey, OSB 060478
Assistant Disciplinary Counsel, Oregon State Bar
(503) 431-6387
nchourey@osbar.org

4TH JUDICIAL DIST

18 FEB -5 PM 2:39

FILED

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Verified Correct Copy of Original 2/6/2018.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

In the Matter of the Appointment
of a Custodian for the Law Practice of

ANDREW LONG

) Multnomah County Case No. 17CV55600
)
)
) AMENDED *EX PARTE* ORDER APPOINTING
) OREGON STATE BAR TO ACT AS CUSTODIAN OF
) LAW PRACTICE (ORS 9.705 et seq.)
)
)
)

This matter came before this court on the Oregon State Bar's Petition for an order appointing custodian of Andrew Long's law practice and. Based upon the petition and the declaration submitted therewith, the court finds that this court has jurisdiction over the law practice of Andrew Long and that the assumption of such jurisdiction is necessary in order to protect the interest of the clients of Andrew Long or to protect the public interest. Now, therefore:

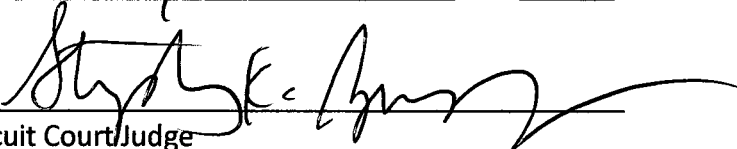
IT IS HEREBY ORDERED that this court take immediate jurisdiction over the law practice of Andrew Long, including Andrew Long's IOLTA account funds and records, all legal files, client's trust funds, clients' property and all books, records (electronic and paper), funds and property used in Andrew Long's law practice.

IT IS FURTHER ORDERED that the Oregon State Bar is appointed to act as custodian of Andrew Long's law practice and shall be permitted, immediately upon this appointment, to take possession and control of all property comprising Andrew Long's law practice in accordance with the powers set forth in ORS 9.725.

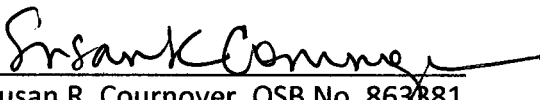
Verified Correct Copy of Original 2/6/2018.

1 IT IS FURTHER ORDERED that Wells Fargo Bank and any other financial institution holding
 2 funds in an IOLTA lawyer trust account of Andrew Long shall release the funds to the Oregon
 3 State Bar upon presentment of a copy of this order appointing the Oregon State Bar as custodian
 4 of Andrew Long's practice. Access shall be without any obstruction by Mr. Long and the Oregon
 5 State Bar may be assisted by the Multnomah County Sheriff's Deputies. The Bar shall give actual
 6 notice to Mr. Long of the date and time of entry to Mr. Long's office.

7
 8 DATED this 5th day of February, 2018.

9
 10 
 11 Circuit Court Judge

12
 13 Presented by:

14 
 15 Susan R. Cournoyer, OSB No. 863881
 16 Assistant Disciplinary Counsel, Oregon State Bar
 17 (503) 431-6324
 18 scournoyer@osbar.org
 19
 20
 21
 22
 23
 24
 25

PAGE 2 – AMENDED *EX PARTE* ORDER APPOINTING OREGON STATE BAR TO ACT AS CUSTODIAN
 OF LAW PRACTICE (ORS 9.705 et seq.)

Oregon State Bar

July 31, 2018

VIA EMAIL AND FIRST CLASS MAIL

Andrew Long
610 SW Broadway, Suite 510
Portland, OR 97205
andrewlongpdx@gmail.com

Re: *In re Andrew Long* – Case Nos. 17-89, 17-90, 17-109, 18-08 & 18-43
Your Email Yesterday for my Deposition

Dear Mr. Long:

This letter responds to your email to me yesterday regarding your unexplained and unsupported desire to “depose” me and “Bar personnel.” We would object to your claimed “depositions.”

As an initial matter, I am opposing counsel and trial counsel in the above captioned disciplinary matter. I am not a witness with personal knowledge of any of the facts that form the basis of the Bar's charges and I am not an expert witness in the instant proceeding. See BR 5.1(a). Lawyers are generally prohibited from being called as witnesses in proceedings the lawyers have handled because of the distinction between evidence and advocacy. See RPC 3.7 [lawyer as witness]. “This venerable rule is a necessary corollary to the more fundamental tenet of our adversarial system that juries are to ground their decisions on the facts of a case and not on the integrity or credibility of the advocates.” *U.S. v. Prantil*, 764 F2d 548, 553 (9th Cir 1985). Under these circumstances, please note that we would move to quash such a “subpoena.” To the extent that you seek legal advice from Disciplinary Counsel’s Office, we remain unable to respond. You should consult with a lawyer of your choosing regarding the process and procedures in your criminal matter.

There are several additional problems at issue. It appears from your prior submissions for “depositions” that you actually desire an informal pretrial meeting with me rather than a deposition. See ORCP 39; ORCP 55. Please provide proof of payment to me for my appearance. Please also advise who will be placing me under oath (see ORCP 38) and how you intend to make a record. You indicated previously that the meetings you desired with others will be “videographically recorded” but that transcripts may or may not be prepared. Please advise who will be recording the proceeding and how the recording will be preserved. The Bar will not consent to a phone recording of such a meeting, or that custody of any such recording reside

Ex 13

Letter to Andrew Long
July 31, 2018
Page 2

solely with you. Moreover, the Bar would not consent to the admission of any recording of my purported testimony at our disciplinary trial in the absence of a transcript.

Please also understand that I will not meet with you at any unsecure locations. That is why all proceedings related to your matters have been at the Multnomah County Courthouse. As you know, we object to any appearance with you that is not held at either the Multnomah County Courthouse, the federal courthouse, or other secure location.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nik T. Chourey".

Nik T. Chourey
Assistant Disciplinary Counsel
Extension 387
nchourey@osbar.org

NTC:jcs

FILED

18 OCT 25 PM 2:33

CIRCUIT COURT
FOR MULTNOMAH COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

18CV48680

In the Matter of the Appointment
of a Custodian for the Law Practice of
LORI E. DEVENY

Case No.

**LIMITED JUDGMENT
APPOINTING CUSTODIAN OF A
LAW PRACTICE**

THIS MATTER came before the court on the *ex parte* petition of the Oregon State Bar to
be appointed custodian of the law practice of former Oregon attorney, Lori E. Deveny.

THE COURT FINDS:

1. From September 1989 until May 2018, the affected attorney, Lori E. Deveny
("Deveny"), was a member of the Oregon State Bar, with her office and practice located in
Multnomah County, Oregon.

2. On May 24, 2018, Deveny signed a Form B resignation from the Oregon State
Bar (the "Resignation"). The Resignation stated that Deveny's files would be delivered to
Oregon attorney Jodie Phillips Polich.

3. On July 26, 2018, Chief Justice Walters of the Oregon Supreme Court signed the
Order Accepting Resignation From Practice of Law executed by Deveny.

4. From and after the date of the Resignation, Deveny has failed to deliver all client
files and client records in her possession to Ms. Phillips Polich as required by the terms of the

Ex 14

_ Verified Correct Copy of Original 10/25/2018._

1 Resignation.

2 5. Ms. Phillips Polich has advised the Oregon State Bar that she is not willing to
3 accept Deveny's client files and client records.

4 6. At this time, some of Deveny's client files and records are in the possession of the
5 Professional Liability Fund, and some client files and records remain in Deveny's possession.

6 7. Deveny did not make arrangements for the orderly termination of her law
7 practice.

8 8. No partner or other responsible successor to her practice is known to exist.

9 9. This Court has sole jurisdiction under ORS 9.710 to protect the interests of the
10 public, and, in particular, Deveny's clients, by appointing the Oregon State Bar to serve as
11 custodian of Deveny's law practice. Pursuant to ORS 9.730, the Oregon State Bar has engaged
12 the services of the Oregon State Bar Professional Liability Fund to assist with a portion of the
13 duties as custodian.

14 **THE COURT ORDERS AS FOLLOWS:**

15 10. The *ex parte* application for appointment of the Oregon State Bar to take custody
16 over Deveny's law practice is granted.

17 11. No fee or bond is required.

18 12. The Oregon State Bar shall serve a certified copy of this limited judgment on all
19 banks or financial institutions where Deveny maintained either business or operating accounts or
20 a client trust account. Pursuant to ORS 9.725, such service shall immediately operate as a
21 modification of any agreement of deposit between such bank or financial institution and Deveny
22 and any other party to the account so as to make the Oregon State Bar an authorized signer on
23 any professional or trust account maintained by Deveny.

Verified Correct Copy of Original 10/25/2018.

1 13. Pursuant to ORS 9.720, the Oregon State Bar shall take immediate possession of
2 Deveny's lawyer trust account and all client property, including legal files, electronically stored
3 information and all other data of any type and kind, client trust funds, and any other client
4 property, as well as all books, records, funds, and property used in Deveny's law practice.

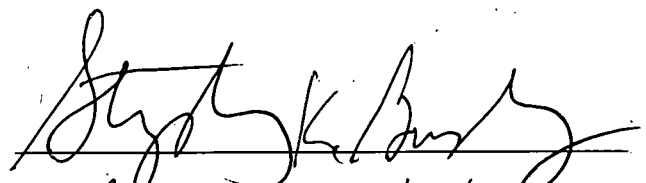
5 14. If necessary, the Oregon State Bar shall determine the ownership of the funds in
6 the lawyer trust account and shall distribute the funds as directed by the interested client. Any
7 funds for which ownership cannot be determined or for whom the owner cannot be located shall
8 be retained by the Oregon State Bar as provided in ORS 98.302 to 98.436.

9 15. Pursuant to ORS 9.725, the Oregon State Bar, or the Oregon State Bar
10 Professional Liability Fund at the Oregon State Bar's request, shall inventory the files in their
11 possession and shall send letters to Deveny's former clients advising them how they may retrieve
12 their files.

13 16. The Oregon State Bar Professional Liability Fund shall not, by its actions in this
14 case, become counsel for any of Deveny's clients.

15 Dated this 25th day of October, 2018.

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BUSHONG 10/25/18

Verified Correct Copy of Original 10/25/2018.

Submitted by:

KELL, ALTERMAN & RUNSTEIN, L.L.P.

Susan T. Alterman, OSB #870815

520 SW Yamhill Street, Suite 600

Portland, OR 97204

Telephone: (503) 222-3531

Fax: (503) 227-2980

Email: salterman@kelrun.com

Attorney for Petitioner

UTCRC 5.100 — CERTIFICATE OF READINESS

This proposed **LIMITED JUDGMENT APPOINTING CUSTODIAN OF A LAW PRACTICE** is ready for judicial signature because:

☐ Each opposing party affected by this Order or Judgment has stipulated to the Order or Judgment, as shown by each opposing party's signature on the document being submitted.

☒ Each opposing party affected by this Order or Judgment has approved the Order or Judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.

☐ I have served a copy of the Motion for an Order Directing Sheriff to Issue Sheriff's Deed on all parties entitled to service and:

a) ☐ No objection has been served on me.

b) ☐ I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.

c) ☐ After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.

☐ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

☐ This is a proposed Judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (4) of this rule.

☐ Other: _____

DATED this 24 day of October, 2018.

KELL, ALTERMAN & RUNSTEIN,
L.L.P.

By s/ Susan T. Alterman
Susan T. Alterman, OSB # 870815
Attorney for Petitioner

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4 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**
5 **FOR THE COUNTY OF MULTNOMAH**

6 Probate Department

7
8 In the Matter of the Estate of
9 KATHRYN CORINNE KENNEDY,
10 Deceased.

Case No. 17PB09149

**GENERAL JUDGMENT APPROVING
FIRST AND FINAL ACCOUNTING
AND AUTHORIZING FINAL
DISTRIBUTION**

11
12
13 The Personal Representative, having filed the *First and Final Accounting and Petition*
14 *for General Judgment of Final Distribution* on March 1, 2019, and the time for filing objections
15 having passed with no objections filed, the Court finds:

16 1.

17 **Taxes.** All federal and Oregon income, estate, and personal property taxes that have
18 become due have been paid and all required returns have been filed.

19 2.

20 **Request for Reimbursement.** The Personal Representative has requested authorization
21 to reimburse herself for expenses of administration she has advanced on behalf of the Estate,
22 totaling \$10,114.89.

23 3.

24 **Expenses of Administration.** The remaining unsatisfied expense of administration,
25
26

Ex 15

other than attorney fees (discussed in Paragraph 7 below) is an amount owing to the Portland Water Bureau in the amount of approximately \$780.39.

5.

Reserve. The Personal Representative has requested authorization to establish a reserve in the sum of \$2,500.00 for attorney fees for distribution of the estate's assets and completion of other closing documents. The Personal Representative has requested that any balance remaining in the reserve be distributed to the residuary devisees under the Decedent's Will in their distributive shares.

6.

Personal Representative's Fee. The Personal Representative has waived her Personal Representative fee.

7.

Attorney Fees and Costs. Reasonable fees for the services performed by Caress Law, PC for the estate thus far, equals the sum of \$17,989.84 and costs in the amount of \$992.53, for a total of \$18,982.37.

8.

Remaining Assets. The remainder of the estate assets, after payment of the expenses set forth above, is vested in the following devisees under the decedent's Will:

Devisee	Distribution
Lois Fulgham	Maplewood Secretary and its contents; 50% of residue of the estate
Elizabeth D. Garrett	Maplewood Hutch/cabinet and its contents; 50% of the residue of the estate

9.

Notice. The *Proof of Service of Notice of Time for Filing Objections to the First and Final Accounting and Petition for General Judgment of Distribution* has been filed.

Therefore, it is hereby ORDERED AND ADJUDGED as follows:

A. The first and final accounting is approved;

B. Wells Fargo is authorized to issue the following checks or money orders from the restricted Estate account (#6491605413) and to send the checks/money orders to Caress Law, PC for further distribution:

- i. Portland Water Bureau: Wells Fargo is directed to write a check/money order to the Portland Water Bureau (reference: account number 299-702-880-0) in the amount of \$780.39.
- ii. Personal Representative Reimbursement: Wells Fargo is directed write a check/money order to Lori Deveny in the amount of \$10,114.89.
- iii. Caress Law, PC: Wells Fargo is directed to write a check/money order to Caress Law, PC in the amount of \$18,982.37 for reasonable attorney fees and costs.
- iv. Lois Fulgham: Wells Fargo is authorized to write a check/money order to Lois Fulgham in the amount of \$3,462.62.
- v. Elizabeth D. Garrett: Wells Fargo to write a check to Elizabeth D. Garrett in the amount of \$3,462.62.
- vi. Wells Fargo is authorized to write a check to Caress Law, PC in the amount of \$2,500.00, to be held in Caress Law, PC's Interest on Lawyer

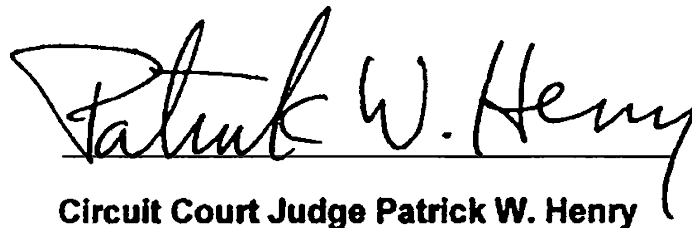
1 Trust Account as a reserve for attorney fees and costs for completion of
2 the final accounting, distribution of the estate's assets and completion of
3 the closing documents.

4 C. Caress Law, PC is ordered to hold the \$2,500.00 reserve in its Interest on Lawyer
5 Trust Account until the completion of the final accounting, distribution of the estate
6 assets and completion of the closing documents. Caress Law, PC, after payment of
7 attorney fees from this reserve, is ordered to distribute any balance remaining in the
8 reserve to the decedent's residuary beneficiaries in their percentage shares.
9

10 D. The Personal Representative is authorized to distribute the Maplewood Secretary and
11 its contents to Lois Fulgham.

12 E. The Personal Representative is authorized to distribute the Maplewood hutch/cabinet
13 and its contents to Elizabeth D. Garrett.

14 F. On filing receipts for the distribution, the Court will enter a supplemental judgment to
15 discharge the Personal Representative and close the estate.
16

17
18 
19
20 **Circuit Court Judge Patrick W. Henry**

21 Signed: 4/9/2019 03:01 PM
22
23
24
25
26

Personal Representative:

Lori E. Deveny

1020 SW Taylor St. STE 690
Portland, OR 97205
(503) 225-0440

Attorney for Personal Representative:

Caress Law, PC

Tammi M. Caress, OSB #112962

9400 SW Barnes Rd. STE 300

Portland, OR 97225

Telephone: 503-292-8990

Fax: 503-200-2985

Email: tammi@caresslaw.estate

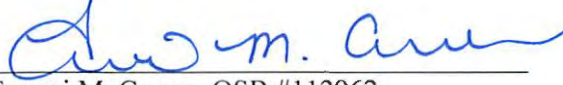
CERTIFICATE OF COMPLIANCE WITH UTCR 5.100

I hereby certify as follows: This matter is an uncontested Estate proceeding, and service of the proposed *General Judgment Approving First and Final Accounting and Authorizing Final Distribution* is not required.

This proposed order or judgment is ready for judicial signature because:

1. ☐ Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
2. ☐ Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
3. ☐ I have served a copy of this order or judgment on each party entitled to service and:
 - a. ☐ No objection has been served on me.
 - b. ☐ I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
 - c. ☐ After conferring about objections, [role and name of objecting party] agreed to independently file any remaining objection.
4. ☒ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
5. ☐ This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.
6. ☐ Other: _____

3/26/19
Date


Tammi M. Caress, OSB #112962
Attorney for Personal Representative

Personal Representative:
Lori E. Deveny
1020 SW Taylor St. STE 690
Portland, OR 97205
(503) 225-0440

Attorney for Personal Representative:
Caress Law, PC
Tammi M. Caress, OSB #112962
9400 SW Barnes Rd. STE 300
Portland, OR 97225
Telephone: 503-292-8990
Fax: 503-200-2985
Email: tammi@caresslaw.estate

1 IN THE SUPREME COURT

2 OF THE STATE OF OREGON

3 In re:) Case Nos. 17-89, 17-90, 17-109, 18-08, & 18-43
 4 Complaint as to the Conduct of) OREGON STATE BAR'S RESPONSE TO LONG'S
 5 ANDREW LONG,) SECOND REQUESTS FOR PRODUCTION OF
 6 Respondent.) DOCUMENTS

7
 8 In response to the Respondent's Second Requests for Production of Documents ("RFP2"),
 9 the Oregon State Bar ("Bar") responds as follows:

10 GENERAL OBJECTIONS

11 Bar Rule ("BR") 4.5(a) states that "discovery in disciplinary proceedings is intended
 12 promote identification of issues and a prompt and fair hearing on the charges." BR 4.5(b)(4)
 13 states that the "manner of making requests for production of documents shall conform as nearly
 14 as practicable to the procedures set forth in the Oregon Rules of Civil Procedure." Requests for
 15 production that contravene, rather than conform to the procedures of the Oregon Rules of Civil
 16 Procedure ("ORCP") cannot be perpetuated in a disciplinary proceeding.

17 1. The Bar objects to Long's misrepresentations in his pleadings' Certificates of
 18 Service. Long's Certificate of Service attached to his RFP2 falsely represented that he served his
 19 RFP by email and mail on July 16, 2018. Long sent the RFP by email on July 17, 2018. Long then
 20 served his RFP on the Bar by mailing it on July 18, 2018. The Bar previously notified Long, in
 21 writing, that it did not agree to service by email in this matter. Under BR 1.8(e), service by email
 22 does not effectuate service of pleadings unless the parties agree to service by email. Without
 23 waiver of this objection, the Bar presently serves its response to RFP2. Long failed to timely serve
 24 RFP2 because the Bar's Response is due after the close of discovery in the instant matter. Without
 25 waiver of its objection for Long's untimely service of discovery, the Bar serves this Response.

on March 1, 2018, and the Bar's Supplemental Production of Documents sent to Respondent on August 1, 2018.

REQUEST NO. 26: Please provide any and all documents indicating what measures the Bar took to assess the state of Mr. Long's practice (such as the number of clients, their impending matters, and the extent to which they could find substitute representation) and the effects of immediate prehearing suspension on the financial affairs of clients or others, as well as any preparatory or post-suspension measure taken by, or place by, the Bar to minimize or avert harm to Mr. Long's clients or the public resulting from his suspension and the Bar's custodianship of his practice.

RESPONSE:

- In addition to the Bar's General Objections, the Bar specifically objects to this request on the basis of: outside the scope of ORCP 36B and ORCP 43A; in violation of ORCP 43B: attorney-work product; vague; overbroad; unduly burdensome and costly; unreasonable; an impermissible interrogatory; and attorney-client privileged communications.
- Without waiver of any objections, the Bar does not possess any responsive documents.

REQUEST NO. 26 [sic]: Please provide any and all documents within the Bar's possession and control that may be understood as exculpatory of Mr. Long by a reasonable person representing Mr. Long's interests in this matter.


RESPONSE:

- In addition to the Bar's General Objections, the Bar specifically objects to this request on the basis of: outside the scope of ORCP 36B and ORCP 43A; in violation

1 on March 1, 2018, and the Bar's Supplemental Production of Documents sent to
2 Respondent on August 1, 2018.

3
4 Respectfully submitted this 7th day of August, 2018.

5 OREGON STATE BAR

6
7 By: 
8 Nik T. Chourey, OSB No. 060478
9 Assistant Disciplinary Counsel
nchourey@osbar.org

Oregon
State
BarClient Security Fund
Application for Reimbursement

Return completed form to:

Oregon State Bar
Client Security Fund
PO Box 231935
Tigard, OR 97281-1935

2018-07

Payments from the Client Security Fund are entirely within the discretion of the Oregon State Bar.
Submission of this claim does not guarantee payment.
The Oregon State Bar is not responsible for the acts of individual lawyers.

Please note that this form and all documents received in connection with your claim are public records.
Please attach additional sheets if necessary to give a full explanation.

1. Information about the client(s) making the claim:

- a. Full Name: Stewart J. Beutler
 b. Street Address: 52219 SW Keys Rd.
 c. City, State, Zip: Scappoose OREGON 97056
 d. Phone: (Home) 503-543-2910 (Cell) _____
 (Work) _____ (Other) _____
 e. Email: 5385@centurytel.net

RECEIVED
FEB 13 2018
 Oregon State Bar
 Executive Director

2. Information about the lawyer whose conduct caused your claim (also check box 10A on page 3):

- a. Lawyer's Name E. Andrew Long
 b. Firm Name E.A. Long Legal PC
 c. Street Address: 610 SW Broadway Ste 510
 d. City, State, Zip: Portland OR 97205
 e. Phone: 503 479-8654
 f. Email: andrewlongpdx@gmail.com

3. Information about the representation:

- a. When did you hire the lawyer? 7/12/17
 b. What did you hire the lawyer to do? ① Not responsible for maintenance of adjoining strip. ② water drained to the corner of my property.
 c. What was your agreement for payment of fees to the lawyer? (attach a copy of any written fee agreement)
\$1200.00
 d. Did anyone else pay the lawyer to represent you? NO
 e. If yes, explain the circumstances (and complete item 10B on page 3):

- f. How much was actually paid to the lawyer? (please attach proof of payment, if any) \$1200.00

- g. What services did the lawyer perform? None that I know of. I have no documents to help me. Over 10 calls to Andrew, and he stated that he was just about to work on it and had been very busy with other cases. ② received Aug 27/19 see no information of work done.

h. Was there any other relationship (personal, family, business or other) between you and the lawyer?

NO

4. Information about your loss:

- a. When did your loss occur? when the State informed me of his suspending.
 b. When did you discover the loss? when the State (Susan Courmoyer) sent me a letter.
 c. Please describe what the lawyer did that caused your loss Never provided me with documentation to help me.
 d. Total amount of your loss \$1200.
 e. How did you calculate your loss? Attorney Agreement Fee (see bill)
 f. Amount you are requesting to be reimbursed \$1200⁰⁰

5. Information about your efforts to recover your loss:

- a. Have you been reimbursed for any part of your loss? If yes, please explain: NO
This is my first attempt.
 b. Do you have any insurance, indemnity or a bond that might cover your loss? If yes, please explain: NO
 c. Have you made demand on the lawyer to repay your loss? When? Please attach a copy of any written demand.
NO (Susan Courmoyer/State) sent B-mail Link/Ann.
 d. Has the lawyer admitted that he or she owes you money or has he or she agreed to repay you? If yes, please explain: ?
 e. Have you sued the lawyer or made any other claim? If yes, please provide the name of the court and a copy of the complaint. NO
 f. Have you obtained a judgment? If yes, please provide a copy NO
 g. Have you made attempts to locate assets or recover on a judgment? If yes, please explain what you found: NO

6. Information about where you have reported your loss:

- ☐ District attorney
☐ Police
☐ Oregon State Bar Professional Liability Fund
 If yes to any of the above, please provide copies of your complaint, if available.
☒ Oregon State Bar Client Assistance Office or Disciplinary Counsel

7. Did you hire another lawyer to complete any of the work? If yes, please provide the name and telephone number of the new lawyer:

NO - contacted Lewis Farmer
503-226-4644

8. Please give the name and the telephone number of any other person who may have information about this claim: Joana M. Wagner Attorney @ Law.
She was the referring person for Andrew Long.

9. Agreement and Understanding

The claimant agrees that, in exchange for any award from the Oregon State Bar Client Security Fund (OSB CSF), the claimant will:

- Transfer to the Oregon State Bar all rights the claimant has against the lawyer or anyone else responsible for the claimant's loss, up to the amount of the CSF award.
- Cooperate with the OSB CSF in its efforts to collect from the lawyer, including providing information and testimony in any legal proceeding initiated by the OSB CSF.
- Notify the OSB CSF if the claimant receives notice that the lawyer has filed for bankruptcy relief.
- Notify the OSB CSF if the claimant receives any payment from or otherwise recovers any portion of the loss from the lawyer or any other person on entity and reimburse the OSB CSF to the extent of such payment.

yes Stu Beuth

10. Claimant's Authorization

- ☒ Release of Files: I hereby authorize the release to the OSB Client Security Fund, upon request, of any records or files relating to the representation of me by the lawyer named in Question 2.
- ☐ Payment to Third Party: I hereby authorize the OSB Client Security Fund to pay all amounts awarded to me to:

Name: _____

Address: _____

Phone: _____

11. Claimant's Signature and Verification

(Each claimant must have a notarized signature page. Please photocopy this page for each person listed in question 1.)

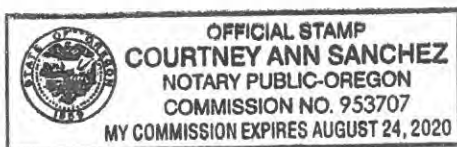
State of Oregon)
 County of Columbia) ss

Upon oath or affirmation, I certify the following to be true:

I have reviewed the Rules of the Client Security Fund and the foregoing Application for Reimbursement; and submit this claim subject to the conditions stated therein; and the information which I have provided in this Application is complete and true, to the best of my knowledge and belief.

Stuart J. Beuth
 Claimant's Signature

Signed and sworn (or affirmed) before me this 26 day of January, 2018.

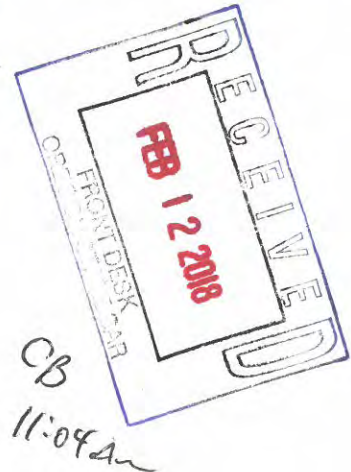


Notary's Signature *Courtney Sanchez*
 Notary Public for Oregon
 My Commission Expires 08/24/2020

Please complete page 4 if an attorney is representing you for this claim.

Sta Beutler
52219 Sw Keys Rd.
Seaport CA 97058

Susan Cournoyer



PROFESSIONAL LIABILITY FUND
PO BOX 231600
TIGARD OR 97281-1600



1021



97281

NEOPOST FIRST-CLASS MAIL
02/05/2018
US POSTAGE \$000.47
 ZIP 97224
041M11286334

U.S. POST
PAID
SCAPPO
FEB 09, 10
AMOUNT
\$0.
R2305E124

R's Met. S066327 S066649 -- 135





Andrew Long <andrewlongpdx@gmail.com>

Hearing on 3.1 petition

Dawn Evans <devans@osbar.org>

Mon, Mar 18, 2019 at 10:37 AM

To: Andrew Long <andrewlongpdx@gmail.com>

Mr. Long:

I am letting you know that it is my intention to perpetuate the testimony of Shannon Williams at the 3.1 hearing, so as not to have to call her again to testify at the June trial. I am telling you so that you can be prepared to fully cross-examine her then.

Sincerely,

**Dawn Evans**

Disciplinary Counsel and Director of Regulatory Services

503-431-6319

devans@osbar.orgOregon State Bar • [16037 SW Upper Boones Ferry Road](#) • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

Ex 18



Beaverton Police Department

4755 S.W. Griffith Drive
Beaverton, Oregon 97005

Chief Jim Monger

NEWS RELEASE



Officer Jeremy Shaw
Public Information Officer
(503) 969-6502

Released: February 28, 2018
Case No: 17-3551050

Portland Attorney Arrested

On February 28th, 2018 Beaverton Police Detectives arrested 42-year-old Erik Graeff, a Vancouver, WA resident, for a shooting that occurred on December 21st, 2017 near SW Murray Blvd/SW Millikan Way.

On December 21, 2017 at 7:00 PM Beaverton Police Officers responded to the area of SW Murray/SW Millikan on reports of gun shots. On arrival, officers located shell casings and bullet strikes on a nearby building. That building was occupied at the time of the shooting but no one was injured.

On February 28th, 2018 Beaverton Police Detectives and Officers from Vancouver Police Department served search warrants in both Vancouver and Portland. The search warrants were served at Mr. Graeff's place of employment and his residence. Detectives seized evidence from the shooting to include two firearms and ammunition.

Mr. Graeff is a practicing licensed attorney in Oregon and Washington. Mr. Graeff allegedly had an ongoing argument with another attorney which led to the shooting. The shooting location was the victim attorney's place of business.

Mr. Graeff was arrested and lodged at the Washington County Jail on 6 counts of Unlawful Use Of A Weapon and 1 count of Reckless Endangering.

Beaverton Police Detectives are seeking tips in this case. If anyone has information regarding this case we ask you to call 503-526-2674 and speak to Detective Chad Opitz.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
Probate Department

In re the Matter of the Estate of)	Case No. 18PB03269
)	
)	
KENNETH LEROY LEONARD,)	EX PARTE REQUEST FOR EXPEDITED
)	CONSIDERATION;
)	CORRESPONDENCE
)	
)	
)	
Deceased.)	
_____)	

The personal representative is filing this request concurrently with a proposed judgment for final distribution. The notice period for objection, if any, has expired. Good cause to expedite the consideration of the judgment signing is the following:

The attorney for the personal representative has stipulated with the Oregon State Bar to suspend practice under BR 3.4 interim suspension rules. More information can be obtained in Oregon Supreme Court Case # 18-175. The stipulation provides authority for the attorney to

1 continue practicing law until January 15, 2019. Attorney cases near conclusion like this case are
2 to have expedited requests filed to conclude the case as soon as possible. This will eliminate the
3 need for the estate to hire another attorney to finish the case.

4 This motion and request is not being billed by the attorney and no fees will be petitioned
5 for in connection with this request.
6

7 We request the court give this final judgment for distribution expedited consideration
8 since the attorney's permission to serve as counsel will expire January 15, 2019.
9

10 Submitted by:

11 PERSONAL REPRESENTATIVE

12 Adele Leonard
13 439 SE 33rd Ave
14 Portland, OR 97214
15 503-233-7341

16 ATTORNEY FOR SUCCESSOR PERSONAL REPRESENTATIVE

17 s/Erik Graeff

18 Erik Graeff OSB #102169

19 PO Box 5532

20 Portland, OR 97228

21 Ph. 971-238-9322

22 Fax 503-389-7939

23 ErikGraeffLaw@gmail.com
24
25
26
27
28

September 7, 2017

Erik Graeff
Attorney at Law
erikgraefflaw@gmail.com

Re: **Subject: LDD 1701291**
 Erik Graeff (Brooks F. Cooper)

Dear Erik Graeff:

The Oregon State Bar Client Assistance Office (CAO) has received the attached correspondence from Brooks F. Cooper. The CAO is responsible for reviewing concerns regarding Oregon lawyers. Under Bar Rule of Procedure 2.5 and as resources permit, CAO determines the manner and extent of review required to determine whether there is sufficient evidence to support a reasonable belief that misconduct may have occurred warranting a referral to Disciplinary Counsel's Office. Misconduct means a violation of the rules of professional conduct and applicable statutes that govern lawyer conduct in Oregon. Mr. Cooper's concerns may implicate the provisions of RPC 1.15-1(d) [property of another], 1.16(d) [Termination of Employment], 4.4(a) [rights of third persons] and 8.4(a)(2) [criminal conduct].

In order for me to conduct a fair and informed review, I would like to have your account of the matter no later than September 28, 2017. I am able to grant an extension of the time to respond for good cause, if requested before the deadline. **Please submit your response via email to cao@osbar.org, using the subject line LDD 1701291. It is not necessary to also mail a paper copy of your response.**

A copy of your response will be sent to Mr. Cooper. If appropriate, I may request he comment on your response. All material submitted by the parties in the course of this review is public record and both parties will receive copies. Please limit your response and any documents you send to the ethics issues presented. I am confident I will receive your full cooperation in this matter. You should be aware, however, that if you fail to respond to this request, this matter will be referred to Disciplinary Counsel's Office for further review.

After I review all documentation and information gathered in this matter I will determine if there is sufficient evidence warranting a referral to Disciplinary Counsel's

Erik Graeff
Page 2

Office for further evaluation pursuant to BR 2.5(b)(2). CAO determines the manner and extent of review required for the appropriate disposition of complaints.

Thank you in advance for your cooperation. I look forward to a fair and expeditious review of this matter.

Yours,

A handwritten signature in black ink, appearing to read 'L. Davis', with a stylized flourish extending to the right.

Linn D. Davis
Assistant General Counsel
Ext. 332

LDD/kng
Attachment

cc: Brooks F. Cooper, Attorney at Law

E-mail submissions to: cao@osbar.org Use subject line: LDD 1701291

DRANEAS & HUGLIN, P.C.

Attorneys at Law

Suite 400
4949 Meadows Road
Lake Oswego, Oregon 97035

Fax: (503) 496-5510
Phone: (503) 496-5500

August 24, 2017

John H. Draneas
Mark L. Huglin
Stephanie E. Carter
Brooks F. Cooper
Susan K. Lain
Ira R. Weatherhead

Via Email Attachment Only

Client Assistance Office
Oregon State Bar
16037 SW Upper Boones Ferry Road
P.O. Box 231935
Tigard, Oregon

Of Counsel:
Robert S. Perkins

Re: Conduct of attorney Erik Graeff

Dear CAO:

Based upon the information I will relate below, I believe I am compelled by RPC 8.3(a) to make you aware of these events.

Mr. Graeff represented James Orris, in his capacity as Personal Representative of the estate of Genieve Orrise. He represented Mr. Orris for the administration of the estate, and to prosecute a financial abuse claim against another heir who had wrongfully taken property of decedent during her lifetime. Mr. Orris is married to Jill Allen. Mr. Graeff was aware of this.

On July 7, 2017, James Orris terminated Mr. Graeff's representation and retained me. Mr. Graeff and I executed substitutions of counsel which were filed in both matters. Those filings ended Mr. Graeff's attorney-client relationship with James Orris.

This morning, Jill Allen went to Mr. Graeff's law office and requested the original file from his staff. Staff gave her a portion of the file. She reports that she had it in her hand when Mr. Graeff came out of his office and told her that the file was his property and that she could not have it. She reports that some discussion I am not privy to occurred. She reports that this resulted in Mr. Graeff physically assaulting her. She reports that he grabbed the file, laid hands on her and shoved her against a wall.

The police were called and she reports that they photographed her visible injuries. She is going to urgent care at this time for medical diagnosis and treatment, if necessary. She will be meeting with the Multnomah County intake DA today to report and indicate her desire to press charges.

Client Assistance Office

August 24, 2017

Page 2

You may contact Ms. Allen at 503-997-5452. When the police have generated their report from today's incident, I will provide the report number to you.


If the Multnomah County District Attorney chooses to prosecute, I'll provide you the criminal case number.

I believe Mr. Graeff's conduct violates RCP 4.4(a). I have not exhaustively reviewed the rules and so, other violations may be apparent to you after reviewing this letter.

I am ready to provide any other information you need but am making this complaint based upon what Ms. Allen reported to me. I have no personal first hand knowledge of what occurred but can report that she was very upset and nearly hysterical in our telephone call and that she called me after meeting with the police and was still upset to the point that I recommended that she not drive to urgent care, but take a ride share instead. Her level of emotional distress made me worried for her ability to safely drive a car.

Very truly yours,

DRANEAS & HUGLIN, P.C.



Brooks Cooper

cc: Client

Re: Stull/Buchanan

Off. Mike Francis
DPSST # 28248
Accident # 12-393624

Erik Graeff <erikgraefflaw@gmail.com>

Wed 11/29/2017 8:11 PM

To: chelsie buchanan <chelsieor@outlook.com>;



I don't acknowledge anything of what you're saying, I trust nothing of what you tell or write to me, I can assure you if I get possession of the check again I'll immediately alert you by email and obey your instructions on what to do with it. In the meantime I must tell you you have scared my associate Mary when Ray came in and began pacing back and forth behind her and being physically threatening with her. Mary weighs about 97 pounds. If you ever show up unannounced without appointment, If anyone comes into my office in a threatening manner, Ray or anyone else, I would simply break his goddamn face. I also keep licensed firearms in my office so you have been warned.

Sent from my iPhone

On Nov 29, 2017, at 7:16 PM, chelsie buchanan <chelsieor@outlook.com> wrote:

Well Erik, as you are aware, it was in your office when we came up to retrieve our paperwork and you acknowledged that through email (and your associate also confirmed that) at the time. We have not recieved it.

Coers Mitchell contacted us and said you gave them the wrong mailing address, you listed the zip code in place of the suite number. That likely was the problem with the returned mail. We also confirmed our mailing address with your associate when we were there.

Perhaps you could resend it to the appropriate address or we can come pick it up.

Thank You,
Chelsie and Ray

61535 S. HWY. 97 Suite 9364
Bend Oregon 97702

Get [Outlook for Android](#)



From: Erik Graeff <erikgraefflaw@gmail.com>
Sent: Wednesday, November 29, 2017 3:07:25 PM
To: chelsie buchanan
Subject: Re: Stull/Buchanan

Chelsea;

I got Ray's phone message. I dropped that check in the mail the last time it bounced back, I think that was weeks ago.

On Wed, Nov 8, 2017 at 1:28 PM, chelsie buchanan <chelsieor@outlook.com> wrote:

If you haven't scheduled an appointment for us yet, Monday at 12 or 1230 would be a better time for us.

541 213 1217

Get [Outlook for Android](#)

From: Erik Graeff <erikgraefflaw@gmail.com>
Sent: Wednesday, November 8, 2017 8:24:00 AM
To: chelsie buchanan

Ex

22

11/30/17, 11:26 A

Subject: Re: Stull/Buchanan

Make an appointment to come pick them up. We will need 24 hours notice to put them all together.

On Tue, Nov 7, 2017 at 5:49 PM, chelsie buchanan <chelsieor@outlook.com> wrote:

Thanks for the heads up! Greatly appreciated! We need all of our documents back as soon as possible. How can we retrieve them from you?

Get Outlook for Android

From: Erik Graeff <erikgraefflaw@gmail.com>

Sent: Tuesday, November 7, 2017 4:47:56 PM

To: chelsie buchanan

Subject: Re: Stull/Buchanan

I am not your attorney anymore, the court granted my withdrawal on 11/2/17.



Virus-free. www.avast.com

On Tue, Nov 7, 2017 at 9:37 AM, chelsie buchanan <chelsieor@outlook.com> wrote:

Hello Erik,

We just wanted to touch bases with you regarding the latest motion for summary judgement that was filed.

We just wanted to know what your plan was regarding a response and a defense.

Obviously Ray owned the property, so it seems if this is the claim their staking, it should be easy to counter.

Also, the issues with our mail handler have been resolved and we will be maintaining the same mailing address. We hope to hear back from you soon.

Sincerely,

Ray and Chelsie

541 213 1217

541 213 1793

Get Outlook for Android

--
Erik Graeff Esq.
2125 N. Flint Ave
Portland, OR 97227

p 971-238-9322
f 503-389-7939
e ErikGraeffLaw@gmail.com

--
Erik Graeff Esq.
2125 N. Flint Ave
Portland, OR 97227

p 971-238-9322
f 503-389-7939
e ErikGraeffLaw@gmail.com

--
Erik Graeff Esq.
2125 N. Flint Ave
Portland, OR 97227

p 971-238-9322
f 503-389-7939
e ErikGraeffLaw@gmail.com



Andrew Long <andrewlongpdx@gmail.com>

Discovery Question

Emily Schwartz <eschwartz@osbar.org>
To: Andrew Long <andrewlongpdx@gmail.com>
Cc: Dawn Evans <devans@osbar.org>

Mon, Apr 8, 2019 at 10:26 AM

Mr. Long,

A. I have attached please find a document that has been Bates stamped "OSB 005758-005761" and responds to your request for documents relating to the Deveny BR 3.1 matter.

Materials related to Erik Graeff were not included in the document production because there is no BR 3.1 proceeding related to Mr. Graeff.

Thank you,



Emily Schwartz
Discipline Paralegal
503-431-6327

eschwartz@osbar.org

Oregon State Bar • [16037 SW Upper Boones Ferry Road](#) • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

[Quoted text hidden]




Deveny Stipulation (BR 3.1) (5758-5761).pdf
902K

Ex 23

Jennifer Mount

From: OSB CAO Intake
Sent: Thursday, February 01, 2018 11:27 AM
To: ahmet.gurcan@gmail.com
Cc: OSB CAO Intake
Subject: CAO Attorney Complaint
Attachments: Re FW repairs on 2174 NW Johnson.htm; voicemail-79.m4a; review.docx



2/1/2018 11:27:03 AM To: Ahmet Gurcan

**Following is a record of your complaint filed with the Oregon State Bar.
Please retain this for your records.**

Name and Address of COMPLAINANT

Mr Ahmet Gurcan
2174 NW Johnson St
Portland, OR 97210
Primary Phone: 2062459568
Secondary Phone:
Email: ahmet.gurcan@gmail.com

Name and Address of ATTORNEY

Mr Erik Graeff
2125 N Flint Ave
Portland, OR 97227
Primary Phone: (971) 238-6314
Secondary Phone:

COMPLAINT

I worked with Erik to get guidance and potential resolution on complications after a house purchase. Overall, I was very dissatisfied with the level of service Erik provided. Erik is an ARAG lawyer, and when ARAG sent me a survey, I filled it out based on my observations (attachment 3). On the next day, I received a very insulting and threatening email from Erik (attachment 1), and a similar voicemail (attachment 2). I reported this immediately to ARAG, and it was taken very seriously. I would also like to raise it to the attention of the bar. I

am deeply offended with such insults and threats, and would like to know my options. Best Regards, Ahmet Gurcan

ATTACHMENTS

Re FW repairs on 2174 NW Johnson.htm
voicemail-79.m4a
review.docx

Oregon State Bar | 16037 SW Upper Boones Ferry Road | Tigard, Oregon 97224

From: Erik Graeff <erikgraefflaw@gmail.com>
Sent: Friday, January 26, 2018 7:11 AM
To: Ahmet Gurcan
Subject: Re: FW: repairs on 2174 NW Johnson

YOU LISTEN TO ME YOU SON OF BITCH. I HAVE HAD IT WITH BAD REVIEWS FROM PEOPLE WHOSE CASE I DON'T TAKE. I WAS ATTENTIVE AND GENEROUS WITH YOU. TAKE YOUR FUCKING FRAUDULENT REVIEW DOWN, OR I WILL SHOW YOU A REAL LEGAL BATTEL.



Virus-free. www.avast.com

On Fri, Dec 8, 2017 at 3:26 PM, Ahmet Gurcan <ahmet.gurcan@gmail.com> wrote:

Hi Erik,

Please see seller's response and feel free to take over the communication. Let me know if you need any information from us. Thanks,

Ahmet

----- Forwarded message -----

From: Wendy Snyder <wendy-snyder@hotmail.com>
Date: Fri, Dec 8, 2017 at 3:10 PM
Subject: FW: repairs on 2174 NW Johnson
To: Ahmet Gurcan <Ahmet.Gurcan@gmail.com>, Nathalie Pamir <npamir@me.com>

Hi Ahmet and Nathalie,
Here is the reply from the seller's attorney. Let me know if you have any questions. I know it is not good news. Let me know if you want to get together and talk again. The seller said you can contact him directly to talk about it.

Wendy Snyder
Broker with Portland Creative Realtors
503-810-6470
wendy-snyder@hotmail.com

Diamond Platinum Producer since 2006
PortlandCreativeRealtors.com

From: Sean <sean@seanzbecker.com>
Date: Friday, December 8, 2017 at 3:00 PM
To: Wendy <wendy-snyder@hotmail.com>
Cc: Kirby <kirby@seanzbecker.com>
Subject: Re: repairs on 2174 NW Johnson

Ex 24

Hello Wendy,

R's Mots. S066327 & S066649 -- 151

Please see attached response from the Seller's attorney. Should you have any questions, please let me know.

Thanks,

Sean

--

Erik Graeff Esq.
2125 N. Flint Ave
Portland, OR 97227

p 971-238-9322

f 503-389-7939

e ErikGraeffLaw@gmail.com



Andrew Long <e.andrew.long@gmail.com>

Please bear in mind

Andrew Long <e.andrew.long@gmail.com>

Mon, Sep 11, 2017 at 3:58 PM

To: Morgana Alderman <morganaalderman@gmail.com>

And recognize my intent in this:

I have texted and emailed A LOT, but both give you complete control of whether and when you process them.

I have called OCCASIONALLY, at reasonable hours.

You are not supposed to like it, but I am not, IN ANY WAY, taking even the slightest chunk of your autonomy.

I respect you as a person. I think you are likely to forget or not even know, that you have caused me EXTREME difficulty with your silence. The constant writing is, as it was when I did it to Amy, a way to protest and stand my ground WITHOUT FORCING ANYTHING ON YOU.

You are good. Your behavior toward me has been abominable. I am not as insecure as most people -- I don't give a fuck whether you like me and I don't "need" anyone.

I wanted, and want, to be your friend. You could have, and could, do more to heal me than anyone else I have met since 2015.

But all of that is worth shit if I sacrifice my beliefs, which is what consenting to your silence would require.

You make a serious mistake if you judge me as you would judge most. As you told me multiple times, you've never met anyone like me.

Ex 25



Andrew Long <andrewlongpdx@gmail.com>

Fwd: Re: Violation of cease and desist demand

Beth Creighton <beth@civilrightspdx.com>

Sat, Oct 7, 2017 at 2:16 PM

To: Andrew Long <andrewlongpdx@gmail.com>, Susan Cournoyer <SCournoyer@osbar.org>

Yes.

On 10/7/2017 2:11 PM, Andrew Long wrote:

So, your claim is that because you represent her, I am not allowed to contact her about anything unless and until you say it is OK, correct?

On Oct 7, 2017 1:53 PM, "Beth Creighton" <beth@civilrightspdx.com> wrote:

I am resending the email below where I tell you again the scope of my representation, yet you continue to contact Ms. Alderman directly.

There is no point in you trying to convince me why you should be able to contact her when I expressly told you not to. You do not seem to care what the consequences are for your continued contact with my client, which is immensely disturbing. Your continued contact with Ms. Alderman just proves that she is correct for hiring me to try to make it stop. Be assured that we will use whatever means possible under the law to gain your compliance with the cease and desist demand.

Beth Creighton

On Sep 23, 2017 2:01 PM, "Beth Creighton" <beth@civilrightspdx.com> wrote:

I am representing in in her efforts to get you to stop harassing her and as a witness in any litigation involving you as well as potential employment related claims.

Do not contact her as a witness or for anything else. You need to go through me.

Beth Creighton

On 9/23/2017 1:09 PM, Andrew Long wrote:

In what matter is Ms. Alderman represented and what is the scope of representation?

For example, my soon-to-be-ex-wife is a party to the divorce I am litigating against her. When there are matters that I, as a private individual, would give to my attorney if I could still afford one, I contact her attorney. But I don't write her attorney to ask how my kids' soccer games were, I write her.

Morgana dealt me a few serious blows after committing to provide emotional support as a friend. She did it in tandem with a woman who was stealing from me and I can demonstrate they were both lying to me for months. It is very likely that her behavior over these few months will be a major factor in preventing me from gaining custody of my children, thereby leaving them in an abusive family system that goes back several generations. I want to know WHY she betrayed me, giving up major advantages and essentially destroying her own vision of a professional future, to advantage an extremely abusive woman she never met and join forces with an apparent prostitute. It makes no sense, I am concerned

about her, and simply telling me "leave me alone" does not address anything. Moreover, the disruptive manner in which she left as caused significant practical problems.

What drove her to think it is OK to lie to me for months and begin meddling in my divorce and custody case? If you get me an honest and verifiable explanation, I will not need to contact her except as a witness.

Does she plan on delivering phone records by Monday?

On Sep 23, 2017 12:58 PM, "Beth Creighton" <beth@civilrightspdx.com> wrote:

Mr. Long,

As a member of the bar, you have a duty to comply with the disciplinary rules. I encourage you to do so.

Beth Creighton

On 9/23/2017 12:53 PM, Andrew Long wrote:

Ms. Creighton -

Perhaps you do not understand. Ms. Alderman appears to be engaged in criminal activity, may have full access to my client files, and appears very likely to be working in tandem with my extremely abusive soon-to-be-ex-wife to undermine my ability to advocate my 13, 11, and 8 year old children, all of whom I have seen her physically strike. She has given me concussions, ripped chunks of flesh out of me with her teeth, and broken glass items on me, among many other assaults.

I do not know what principle you think you are standing for, but if a person cannot use the written word, delivered innocuously, with any threat of physical danger, to push against what he reasonably believes to be a significant obstacle to the well-being of his children, what exactly does "free" in "free society" mean?

Further, simply being a lawyer neither entitles me to issue random "cease and desist" orders, nor does it require me to stop being a private citizen anytime someone doesn't like what I say.

Please cease and desist from harassing me. Thank you.

On Sep 23, 2017 12:36 PM, "Beth Creighton" <beth@civilrightspdx.com> wrote:

Mr. Long,

I forwarded the bar each and every communication you had with my client yesterday and will continue to do so until you cease. I will also forward this to the bar since you appear to be threatening me with an ethics complaint to gain advantage in your civil cases.

Beth Creighton

On 9/23/2017 12:03 PM, Andrew Long wrote:

Ms. Creighton -

You have threatened me more severely and with less cause than I have threatened her.

I'll tell you what:

- forward me what you sent the Bar, and I will forward it to them with my complaint the you are bringing frivolous administrative action against me;

- forward me your stalking protective order petition, and I will forward you my attorney fees petition and a complaint for a damages caused by a frivolous lawsuit.

I did not check my first amendment rights at a coat check in Salem when I join the Bar.

Morgana's behavior is, to my mind, immature, immoral, entitled, ungrateful, short-sighted, and stupid. If I want to take out an ad in the New York Times telling the world that, I can. That is part of why I haven't moved to China even though Donald Trump is not my favorite human.

The primary thing I have asked of her is that she talk with me. I believe her and Ms.Roach are involved in a criminal conspiracy that will ultimately cause my children to suffer severely over many years, perhaps decades. Your "cease and desist order" is like one bully on the playground telling me not to talk about another one.

Let me be extremely clear: I WILL NOT NOW, NOR EVER, HARM OR UNDERMINE THE PHYSICAL SAFETY OF MORGANA ALDERMAN.

She is a liar and I believe she is in league with my ex-wife, who has punched, kicked, bitten, and otherwise physically assaulted me at least five hundred times. Feel free to pull my divorce for the details.

When my children are involved, I don't back down. Ever.

Cheers,

Andrew

On Sep 23, 2017 10:26 AM, "Beth Creighton" <beth@civilrightspdx.com> wrote:

Mr. Long,

You are in violation of the cease and desist demand sent to you on Thursday. You have contacted my client, a

12/12/2017

Gmail - Fwd: Re: Violation of cease and desist demand

R's Mots. S066327 & S066649 -- 156

represented party, by email 6 times yesterday after receiving the cease and desist demand. In one of the emails, you acknowledge the receipt of the letter because you state you "know you should not be contacting" her.

Pursuant to DR 8.3, I have an obligation to report ethical misconduct known to me. I have reported your DR 4.2 violations to the Oregon State Bar and will continue to forward each and every communication you have with my client.

You have one final opportunity to cease and desist contact with my client or we will seek out a stalking order against you.

Beth Creighton

Kateri Walsh

From: Kateri Walsh
Sent: Monday, October 02, 2017 2:11 PM
To: Nick Budnick
Subject: RE: active bar complaints against Andrew Long?

Yep. I am hoping to have them shortly. Be back to you soon.

K

From: Nick Budnick [nickbudnick@gmail.com]
Sent: Monday, October 02, 2017 2:10 PM
To: Kateri Walsh
Subject: active bar complaints against Andrew Long?

Hi Kateri,

This might be easier: Could I please have copies of any *active* bar complaints against either Andrew Long?

Thanks and best,
Nick

Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, October 03, 2017 11:16 AM
To: 'Nick Budnick'
Subject: Andrew Long: SLAC referral to DCO
Attachments: 2017 0510 Lucey ltr to DME (SLAC referral).pdf; 2017 0510 Lucey ltr to DME (SLAC referral).pdf; 2017 0517 ltr to Long 1dr (OSB complainant).pdf; 2017 0925 REDACTED Complaint Summary.pdf

This email contains documentation of the Andrew Long matter related to a referral from the State Lawyers Assistance Committee (SLAC).

Kateri

Attached:

1. SLAC-Lucey's 5/10/17 referral letter;
2. OSB's 5/17/17 letter to Long;
3. Long's response 6/14/17 letter to OSB can be accessed here:
<https://www.dropbox.com/s/apndxq48qam9rcu/2017%200614%20Long%20email%20to%20SRC%20%28encl%20response%20to%205-17-17%20ltr%20and%20binder%29.pdf?dl=0>
4. Redacted Complaint Summary.

Kateri Walsh

From: Kateri Walsh
Sent: Thursday, October 05, 2017 3:04 PM
To: Nick Budnick
Subject: Re: Long-Alderman text msgs

Morning? Print or just web?

Sent from my iPhone

On Oct 5, 2017, at 3:02 PM, Nick Budnick <nickbudnick@gmail.com> wrote:

alas, tomorrow. But it's coming.

On Thu, Oct 5, 2017 at 2:52 PM, Kateri Walsh <kwash@osbar.org> wrote:
ETA on article?

Sent from my iPhone

On Oct 5, 2017, at 2:29 PM, Nick Budnick <nickbudnick@gmail.com> wrote:

Thank you, Kateri.

On Thu, Oct 5, 2017 at 1:40 PM, Kateri Walsh <kwash@osbar.org> wrote:

Nick this file is a bigger lift than we'd thought. There are places where he references former clients, and other privileged information. So we're trying to be very careful and it's going to take a while. This is the first batch that we've gotten through, so it gives you a starting place. Texts between Long and Morgana Alderman. Lots of sensitive materials here, so handle with care. That's it for my preaching.

We may not have the next batch for a while, but I'm hopeful this is enough for you to get a sense of the materials. Let me know if you have questions or need anything else more urgently.

<image002.gif>Kateri Walsh, Media Relations

Oregon State Bar

[503-431-6406](tel:503-431-6406)

kwash@osbar.org

Kateri Walsh

From: Kateri Walsh
Sent: Monday, October 16, 2017 9:21 AM
To: Nick Budnick
Subject: RE: SPRB Results on Long

For the 3.1, we will prepare a petition direct to the Supreme Court. There is procedure involved. Probably easiest for you to review here, starting on page 21. https://www.osbar.org/_docs/rulesregs/rulesofprocedure.pdf.

Comment: As in all of these emergency petitions, we will seek to move quickly on the matter.

I'm still working on confirming the formal charges n the other matters.

From: Nick Budnick [nickbudnick@gmail.com]
Sent: Monday, October 16, 2017 8:34 AM
To: Kateri Walsh
Subject: Re: SPRB Results on Long

Thanks. Can you tell me how the suspension request will work? Does that go to a trial panel or directly to the Supreme Court?

On Mon, Oct 16, 2017 at 8:26 AM, Kateri Walsh <kwalth@osbar.org<<mailto:kwalth@osbar.org>>> wrote:
Hi Nick. Just update that I'm having trouble getting details but I'm working on it. Our staff lawyer who was at meeting is out today. She did email me the authorizations over weekend, but she didn't specify the charges, so I'm trying to get hands on the notes. I'll try to meet your 9:00 deadline but might be a bit later.

Kateri Walsh

From: Kateri Walsh
Sent: Wednesday, November 22, 2017 10:41 AM
To: 'Nick Budnick'
Subject: Andrew Long

Hi. Can you let me know if/when you expect to post an additional story?



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalsh@osbar.org

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, November 21, 2017 3:04 PM
To: 'Nick Budnick'
Cc: Kateri Walsh
Subject: RE: any new complaints vs. Long
Attachments: 2017 1108 ltr to Long 1dr (OSB complainant).pdf; 2017 0815 Report and Recommendation on Motion for Contempt (child support).pdf

One new investigatory file opened regarding contempt orders issued in Florida. I'm on way out door so don't have time to peruse full file but I've attached enough to let you know the conduct at issue.

So this brings us to eight open files currently. Six have been approved for prosecution, and are also at issue in our 3.1 petition for emergency suspension. Two more are under investigation but not currently approved for prosecution. He was served Friday with the 3.1 petition and has 14 days for service date to file a response.

I assume you are aware of his stalking proceeding taking place now? Or perhaps you're there. I'll be heading downtown in about 15 minutes, so can be reached on cell if needed.

Kateri



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalsh@osbar.org

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From: Nick Budnick [mailto:nickbudnick@gmail.com]
Sent: Tuesday, November 21, 2017 2:34 PM
To: Kateri Walsh <kwalsh@osbar.org>
Subject: any new complaints vs. Long

Hi Kateri,

Have there been an additional complaints filed or launched into E. Andrew Long? If so, would it be possible to share them?

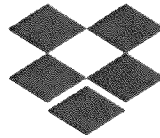
Thanks very much,
Nick Budnick
Reporter, Portland Tribune
503-961-5025

Kateri Walsh

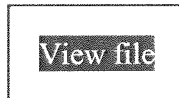
From: Kateri Walsh
Sent: Friday, November 03, 2017 12:48 PM
To: 'Nick Budnick'
Cc: Kateri Walsh
Subject: OSB 3.1 Petition: Andrew Long

Nick, per your request, I am attaching our 3.1 filing here in a dropbox. Please let me know if you have any trouble opening. Thank you.

Kateri



Oregon State Bar (lhaynes@osbar.org) invited you to view the file "**2017 1103 BR 3.1 Petition package.pdf**" on Dropbox.



Enjoy!

The Dropbox team

Oregon and others will be able to see when you view this file. Other files shared with you through Dropbox may also show this info. Learn more in our help center.

© 2017 Dropbox

Kateri Walsh

From: Kateri Walsh
Sent: Friday, November 03, 2017 12:25 PM
To: 'Nick Budnick'
Subject: RE: Kateri would appreciate a record

Can you call me, please?



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalth@osbar.org

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From: Nick Budnick [mailto:nickbudnick@gmail.com]
Sent: Friday, November 03, 2017 12:23 PM
To: Kateri Walsh <kwalth@osbar.org>
Subject: Kateri would appreciate a record

Hi Kateri,

I would appreciate your help with the following request. Under Oregon Public Records Law, I am requesting a copy of the Bar's petition to the Supreme Court regarding E. Andrew Long.

Thanks a lot,
Nick Budnick
Portland Tribune

Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, October 17, 2017 9:35 AM
To: 'Nick Budnick'
Subject: Andrew Long story

Hey Nick. Can you let me know when you anticipate your story posting to web? Thanks very much,

Kateri



Kateri Walsh
Oregon State Bar
503-431-6406
kwalth@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Friday, October 06, 2017 3:50 PM
To: 'Nick Budnick'
Subject: Cell

Hi Nick. I'm leaving office, so when you call, please use cell. Thx.



Kateri Walsh
Oregon State Bar
503-431-6406
kwalth@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Friday, October 06, 2017 2:59 PM
To: 'Nick Budnick'
Subject: Clarifying

Hi Nick. Regarding the records that we believe would be relevant to our newest file on Andrew Long, the date would be anything after September 1, rather than September 21 which I mentioned on the phone. The records relevant to the September 1 incident. Hope that helps. Give a ring if you're getting close to publication. Thanks again.



Kateri Walsh
Oregon State Bar
503-431-6406
kwalth@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Friday, October 06, 2017 11:43 AM
To: 'Nick Budnick'
Subject: Andrew Long matter: Long to Alderman matter

Hi Nick. We are continuing our review of materials attached to the most recently opened Andrew Long matter. Following is a DropBox containing emails from Long to Alderman.

Kateri

https://www.dropbox.com/scl/fi/bls8bva8wt23nq92plpju/LongA%202017%20RDCTD%20Long-Alderman%20emls.pdf?dl=0&oref=e&r=AAcel0igODwnx4lhk6AiuaB6qhgD10LCVYvveQr8ScTQ9QeCUCAeum4MAgp92qCij9EU_McoVz-HLMvvgecnsWA6gcNrKHU3pX0DbV1NGlnQNjWjawiJGa0qBFxw3pJZoO_8jcE3np9A0Fp3LMflxk8xmDUOWo_Ys4VGB4eUILZHQcljU06bHGT0GAhAlkYULu4&sm=1



Kateri Walsh
Oregon State Bar
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kwalth@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Friday, October 06, 2017 10:04 AM
To: 'Nick Budnick'
Subject: Andrew Long matters
Attachments: 2017 1005 REDACTED COMBINED emails through (9-21 thru 10-4-17).pdf

Hi Nick. We are continuing our review of materials attached to the most recently opened Andrew Long matter. Attached are emails from Long to Alderman.

If you can keep me posted on your plans for timing, I would appreciate it. Thanks much,

Kateri



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalth@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Thursday, October 05, 2017 4:37 PM
To: 'Nick Budnick'
Cc: Kateri Walsh
Subject: RE: Long-Alderman text msgs

And note that the Butler matter also has an open claim with the Client Security Fund, which I believe you also have.



Kateri Walsh
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503-431-6406
kwash@osbar.org

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From: Kateri Walsh
Sent: Thursday, October 05, 2017 4:32 PM
To: 'Nick Budnick' <nickbudnick@gmail.com>
Subject: RE: Long-Alderman text msgs

I believe so. The only closed matter is the admonition from Dec 2016, which is attached to several of the Complaint Summaries. No other complaints in his file. Just be aware that we keep dismissed matters for three years if dismissed at the CAO level, and 10 years if dismissed at the DCO level. Anything resulting in discipline is kept forever.

Open matters:
Complaint of Robert Butler and OSB (one and the same) (Also a CSF Claim)
Complaint of Amy Velazquez
Complaint of Beth Creighton
SLAC Referral
Two additional cases OSB opened based on possible Trust Account violations

That's it.



Kateri Walsh, Media Relations
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kwash@osbar.org

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From: Nick Budnick [<mailto:nickbudnick@gmail.com>]
Sent: Thursday, October 05, 2017 4:08 PM
To: Kateri Walsh <kwash@osbar.org>
Subject: Re: Long-Alderman text msgs

Just checking- did you send me *all* Long's closed complaints? Just want to make sure I didn't miss anything. Looking for patterns, obviously.

On Thu, Oct 5, 2017 at 3:39 PM, Kateri Walsh <kwalsh@osbar.org> wrote:

K. Thx.



Kateri Walsh

Oregon State Bar

[503-431-6406](tel:503-431-6406)

kwalsh@osbar.org

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From: Nick Budnick [<mailto:nickbudnick@gmail.com>]

Sent: Thursday, October 05, 2017 3:35 PM

To: Kateri Walsh <kwalsh@osbar.org>

Subject: Re: Long-Alderman text msgs

Web first, print Tues.

Not sure the time but hopefully morning.

On Oct 5, 2017, at 3:04 PM, Kateri Walsh <kwalsh@osbar.org> wrote:

Morning? Print or just web?

Sent from my iPhone

On Oct 5, 2017, at 3:02 PM, Nick Budnick <nickbudnick@gmail.com> wrote:

alas, tomorrow. But it's coming.

On Thu, Oct 5, 2017 at 2:52 PM, Kateri Walsh <kwalsh@osbar.org> wrote:

ETA on article?

Sent from my iPhone

On Oct 5, 2017, at 2:29 PM, Nick Budnick <nickbudnick@gmail.com> wrote:

Thank you, Kateri.

On Thu, Oct 5, 2017 at 1:40 PM, Kateri Walsh
<kwalsh@osbar.org> wrote:

Nick this file is a bigger lift than we'd thought. There are places where he references former clients, and other privileged information. So we're trying to be very careful and it's going to take a while. This is the first batch that we've gotten through, so it gives you a starting place. Texts between Long and Morgana Alderman. Lots of sensitive materials here, so handle with care. That's it for my preaching.

We may not have the next batch for a while, but I'm hopeful this is enough for you to get a sense of the materials. Let me know if you have questions or need anything else more urgently.

<Kateri Walsh, Media Relations

Oregon State Bar

503-431-6406

kwalsh@osbar.org

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<https://www.dropbox.com/s/dtvldzk7z1dmjz/REDACTED%202016%20Chat%20with%20Andrew%20Long%20.pdf?dl=0>

Kateri Walsh

From: Kateri Walsh
Sent: Thursday, October 05, 2017 4:08 PM
To: 'Nick Budnick'
Subject: Andrew Long (Creighton) attachments
Attachments: Chat with Andrew Z.pdf; L Roach and A Long _ extended Texts 9-20-17 -- refute everything.pdf; REDACTED Texts with L Roach 9-1 to 9-15 2017.pdf

Another batch of reviewed materials from the public file.



Kateri Walsh
Oregon State Bar
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kwalsh@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Wednesday, October 04, 2017 5:02 PM
To: 'Nick Budnick'
Subject: RE: Long
Attachments: LongA (Creighton) SCO ltr Oct'17.pdf

Hi Nick. We did open a new matter, and sent letter out today informing Mr. Long of this complaint. The letter is attached. Let me know if you need more.

Kateri Walsh
Oregon State Bar
503-431-6406
kwalsh@osbar.org

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

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-----Original Message-----

From: Nick Budnick [mailto:nickbudnick@gmail.com]
Sent: Wednesday, October 04, 2017 4:41 PM
To: Kateri Walsh <kwalsh@osbar.org>
Subject: Long

Kateri,

If the Bar has opened up any investigations into Edward Andrew Long or received any complaints regarding him since my last such request, I would appreciate it if you could send me records documenting that.

Thank you,

Nick B

Tribune

Kateri Walsh

From: Kateri Walsh
Sent: Wednesday, October 04, 2017 8:57 AM
To: 'Nick Budnick'
Subject: RE: Stats

Hi Nick.

See Page 7 here for SLAC's annual report:
https://www.osbar.org/_docs/leadership/committees/CommitteeAnnualReport.pdf.

However, it is important to note that SLAC is engaged in a fairly small number of lawyers who are struggling with addiction or other mental health crises. There are a number of other very relevant programs that might add some context, if you have the time/space. Let me know if you're interested and I'll see what I can do.

Kateri Walsh
Oregon State Bar
503-431-6406
kwalsh@osbar.org

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-----Original Message-----

From: Nick Budnick [<mailto:nickbudnick@gmail.com>]
Sent: Wednesday, October 04, 2017 8:25 AM
To: Kateri Walsh <kwalsh@osbar.org>
Subject: Stats

Kateri-Does the bar keep stats on lawyers in treatment and in SLAC?

Thanks,
Nick

Kateri Walsh

From: Kateri Walsh
Sent: Wednesday, October 04, 2017 10:03 AM
To: 'Nick Budnick'
Subject: FW: Requested OAAP information
Attachments: lawyer survey oregon.pdf; OAAP_brochure_2017_PROOF_7-21_squares.pdf; Dayinlife 907.pdf

Nick, see here for overview of difference between SLAC and OAAP (although note that this is dated so I wouldn't use the numbers): <https://www.osbar.org/publications/bulletin/06augsep/addictiontwo.html>

And more background attached of possible interest regarding the OAAP.

Finally, below is info from annual report of OAAP which you can see has much more broad engagement with lawyers than SLAC.

That said, SLAC is a unique Oregon approach, in that we are the only state with statutory/regulatory component making participation in a program like this mandatory.

Oregon Attorney Assistance Program. The Oregon Attorney Assistance Program (OAAP) attorney counselors, Shari R. Gregory, Mike Long, Douglas Querin, Kyra Hazilla and Bryan Welch, provide assistance with alcohol and chemical dependency; burnout; career change and satisfaction; depression, anxiety, and other mental health issues; stress management; and time management. In 2016, the OAAP sponsored addiction support groups, lawyers-in-transition meetings, career workshops, a depression support group, a support group for lawyers with ADD, a women's wellness retreat, a men's work/life balance support group, a *trans support group, a resiliency building group, a support group for minority lawyers, a mindfulness group, creating healthy habits support group. 744 lawyers assisted with personal issues in 2016, including alcoholism, drug addiction, career satisfaction, retirement, and mental health issues.

More than you wanted, I am sure! Let me know if you have questions,

Kateri



Kateri Walsh, Media Relations
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kwalsh@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, October 03, 2017 2:15 PM
To: 'Nick Budnick'
Subject: Andrew Long

Hi Nick. Per request, following are several items from Mr. Long's membership file.

STATUS

Admitted to the OSB 9/26/03 (Graduated from Willamette 5/18/03)

Went to Inactive status 12/22/04

Reinstated to OSB 2/5/15

ADDRESSES

He shows an address with a firm in Roseburg in 2003-04

Several addresses in New York from September 2004 – November 2006 (Springville, Valatie, East Nassau, and Albany)

Louisville KY from June 2007-July 2008 (Brandeis School of Law)

Jacksonville Florida July 2008 – October 2013 (Florida Coastal School of Law)

Kansas City MO October 2013 – September 2014

And then Oregon (Lake Oswego and Portland) since 2014

NAME

His name upon admission was E. Andrew Long. Changed just to Andrew Long in March 2016.

DISCIPLINE

Letter of admonition for improper handling of his Lawyer Trust Account. Note that this is not considered formal discipline, but is a warning to improve trust account practices.

He also has one additional matter in his file from April 2016, which was dismissed in May 2016. I will get that background for you before the end of day.

SIX MATTERS CURRENTLY OPEN

Four discipline complaints which are prepared to go to the SPRB in October. Complainants Amy Velazquez, OSB, SLAC and Robert Butler

Two additional trust account violations which will be on the SPRB agenda in October

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Kateri Walsh

From: Kateri Walsh
Sent: Thursday, November 30, 2017 4:16 PM
To: 'Nick Budnick'
Subject: OSB Response to AL MOET
Attachments: 2017 1130 Response to MOET-File Answer

Kateri Walsh

From: Kateri Walsh
Sent: Thursday, November 30, 2017 4:14 PM
To: 'Nick Budnick'
Subject: AL MOET
Attachments: 2017 1128 Long's MOET - File Response

Kateri Walsh

From: Kateri Walsh
Sent: Thursday, November 30, 2017 3:29 PM
To: 'Nick Budnick'
Subject: AL arrested today, FYI



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalth@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, November 28, 2017 9:12 AM
To: 'Nick Budnick'
Subject: Andrew Long

Hi Nick. Just checking in on whether you anticipate posting an Andrew Long story this week. Thank you,

Kateri



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalsh@osbar.org

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Saturday, December 02, 2017 8:48 PM
To: Nick Budnick
Subject: RE: updated

Thanks Nick. You have indeed been busy, and the updates show how many fronts you're having to cover these cases. I appreciate your thorough and diligent work on this.

Kateri

From: Nick Budnick [nickbudnick@gmail.com]
Sent: Saturday, December 02, 2017 11:36 AM
To: Kateri Walsh
Subject: updated

Sorry for the delay-- way too much happening. New, more complete and updated version should appear in about 10 minutes.

<http://portlandtribune.com/pt/9-news/380164-267389-portland-lawyer-arrested-for-violating-week-old-stalking-order>

Kateri Walsh

From: Kateri Walsh
Sent: Wednesday, February 07, 2018 8:28 PM
To: Nick Budnick
Subject: Re: Long Hearing Memo

My understanding is that he did not file by the deadline. I will confirm and update tomorrow.

On Feb 7, 2018, at 8:15 PM, Nick Budnick <nickbudnick@gmail.com> wrote:

Thank you very much. Has he filed any equivalent documents and if so would it be possible to share?

Best,
Nick

On Wed, Feb 7, 2018 at 4:23 PM, Kateri Walsh <kwash@osbar.org> wrote:

Hi Nick. Hearing Memo for Monday's Andrew Long hearing is attached. Scheduled for Mon-Tue in Multnomah County Circuit Court.

Give a ring w/ any questions.

Kateri

<image001.gif>Kateri Walsh, Media Relations

Oregon State Bar

503-431-6406

kwash@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Wednesday, February 07, 2018 4:23 PM
To: 'Nick Budnick'
Subject: Long Hearing Memo
Attachments: 2018 0205 BR 3.1 Hearing Memorandum.pdf

Hi Nick. Hearing Memo for Monday's Andrew Long hearing is attached. Scheduled for Mon-Tue in Multnomah County Circuit Court.

Give a ring w/ any questions.

Kateri



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalth@osbar.org

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Thursday, February 08, 2018 12:07 PM
To: 'Nick Budnick'
Subject: Long

Confirming: Andrew Long has not filed a 3.1 Hearing Memo. The deadline has passed, although there may be some provision for Baldwin to allow it if requested. But as of now, now filing and no request.



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Kateri Walsh

From: Kateri Walsh
Sent: Monday, February 12, 2018 4:35 PM
To: Nick Budnick
Subject: Re: Tallmadge correspondence?

Call me if/when you can. Maybe we can talk this through and arrive at something helpful b

Sent from my iPhone

On Feb 12, 2018, at 4:29 PM, Nick Budnick <nickbudnick@gmail.com> wrote:

Happy to narrow- ideas?

Sent from my iPhone

On Feb 12, 2018, at 2:47 PM, Kateri Walsh <kwalsh@osbar.org> wrote:

Hey Nick. This would likely take staff two or three days, which may be late for your publication purposes, if I'm not mistaken? Can we discuss a narrowing? Give a ring on cell if we should discuss.

Kateri
503-860-1683

Begin forwarded message:

From: Kateri Walsh <kwalsh@osbar.org>
Date: February 12, 2018 at 1:09:04 PM PST
To: Nick Budnick <nickbudnick@gmail.com>
Subject: Re: Tallmadge correspondence?

I'll do my best but might take a say or two. Is that a problem?

On Feb 12, 2018, at 1:07 PM, Nick Budnick
<nickbudnick@gmail.com> wrote:

Hi Kateri,

I hope this finds you well. Would it be possible to please send me all the correspondence and evidence associated with the Tallmadge bar complaint vs. Long?

Thanks and best,

Nick Budnick

Portland Tribune

Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, February 13, 2018 9:22 AM
To: 'Nick Budnick'
Subject: RE: FW: Long's hearing memo

K. I will call you shortly.



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalsh@osbar.org

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From: Nick Budnick [mailto:nickbudnick@gmail.com]
Sent: Tuesday, February 13, 2018 9:21 AM
To: Kateri Walsh <kwalsh@osbar.org>
Subject: Re: FW: Long's hearing memo

Thanks and sorry to be out of touch. When you get a free moment would be great if we could touch base. 503-961-5025

On Tue, Feb 13, 2018 at 8:16 AM, Kateri Walsh <kwalsh@osbar.org> wrote:

Nick, I discovered this morning that Long did end up filing a Hearing Memo and response late Friday. I apologize for getting it to you late.

I'll be sending you the bulk of the Tallmadge materials shortly.

Kateri



Kateri Walsh, Media Relations
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kwalsh@osbar.org

kwalsh@osbar.org

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<https://www.dropbox.com/s/dtvldzlk7z1dmjz/REDACTED%202016%20Chat%20with%20Andrew%20Long%20.pdf?dl=0>

Kateri Walsh

From: Kateri Walsh
Sent: Monday, February 12, 2018 1:44 PM
To: Nick Budnick
Subject: Fwd: Andrew long

Nick. Following is rough outline of our planned schedule for today, although they could depart. And then a list of Mr. Long's witnesses although we do not know order. I hope that helps.

- >
- > Multnomah County Courthouse
- > Room 312
- >
- >
- > 2/12/18 - OSB's case in chief
- > Opening
- > -Testimony of Dr. Nicole Richman
- > -Testimony of Shannon Tallmadge
- > -Testimony of Bonnie Richardson
- > -Testimony of Amy Velazquez
- > -Testimony of Beth Creighton
- > -Testimony of Amber Hollister
- > -Testimony of Andrew Long

- >
- > 2/13/18 - Long's case in chief
- > (not sure what order he's planning to call his witnesses in, but these are the names he provided last week) -Rebekah Gleason Hope (Florida attorney -Gilbert Carrasco (Willamette University professor) -Timothy Lynch (University of Missouri-Kansas City professor) OSB Rebuttal witnesses (not sure who yet)

Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, February 13, 2018 9:02 AM
To: 'Nick Budnick'
Subject: Andrew Long (Tallmadge) media request
Attachments: 2017 1229 ltr to Long 1dr.pdf; 2018 0205 Email fr Long re BR 7.1.pdf

Hi Nick. Per your request, the bulk of correspondence regarding the Tallmadge complaint is in the following DropBox. Attached are two additional items: 1) our letter of inquiry to Mr. Long in the same matter. An additional item of correspondence just recently received by Mr. Long. By separate email this morning, I sent you Long's 3.1 Hearing Memo filed with the court on Friday 2/9.

<https://www.dropbox.com/sh/1wi9aaao5p1hk5t/AAAr5TYZuGG2dG1wae-YiIY9a?dl=0>

Let me know if I can answer any questions. Best,

Kateri



Kateri Walsh, Media Relations
Oregon State Bar
503-431-6406
kwalth@osbar.org

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Kateri Walsh

From: Kateri Walsh
Sent: Tuesday, February 13, 2018 8:16 AM
To: 'Nick Budnick'
Subject: FW: Long's hearing memo
Attachments: 2018 0209 Long's Amd Resp to 3.1 Pet & Memorandum.pdf

Nick, I discovered this morning that Long did end up filing a Hearing Memo and response late Friday. I apologize for getting it to you late.

I'll be sending you the bulk of the Tallmadge materials shortly.

Kateri



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503-431-6406
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October 23, 2017

Lisa Klemp
Attorney at Law
PO Box 457
Redmond, OR 97756

Re: Complaint as to the conduct of Theodore Reuter and Kellie Johnson, OSB Counsel

The following sets forth some of OSB Counsel's misconduct during trial on the matters of 14-128 & 15-01

During trial, OSB counsel allowed witnesses to lie on the stand and even perpetuated the lies. Counsel made material misrepresentations to the Trial Panel; and took substantial efforts to conceal exculpatory evidence from the Panel.

Counsels' conduct both during the deposition of Klemp and at trial gives rise to a finding that Counsel violated the Oregon Rules of Professional Conduct and ORS 9.460 [violating the constitutional due process rights of an accused; and employing only such means as are consistent with the truth; and never seek to mislead the court by any artifice or false statement of law or fact], and 9.527 [engaging in conduct prejudicial to the administration of justice, engaging in willful deceit or misconduct; is guilty of gross or repeated negligence or incompetence in the practice of law; and violated the rules of professional misconduct].

The following is taken from the trial transcript in support of the foregoing allegations:

- Tr12:10-12. OSB Counsel says Klemp and Andrach met "during the beginnings of the Exchange litigation" [Klemp didn't meet Andrach until the matter was set for trial -which was several years after the action was filed]
- Tr 101-102. The OSB's witness, Kellogg, testified that there are letters and various documents from Lee Robertson wherein she testifies as to why she sent Ted Andrach a \$100,000 check made payable to Ted Andrach. He is not referring to the letter that might have been sent with the check or shortly thereafter, but rather later statements from her explaining her purpose in sending the check to him. (A list of Kellogg's misrepresentations during his testimony is attached hereto)

OSB Counsel perpetuated the lie by Kellogg about the existence of any such "letters," "other things," or any "testimony" given by her. When the Trial Panel questioned OSB counsel about the existence of such evidence, Johnson lies to the Panel and says that "there's a declaration of Ms. Robertson that is in evidence, ... and there will also be other letters from Ms. Robertson." Taggart specifically asks if they're already in evidence, and Johnson says they are. She further says she "will be bringing up with witnesses those specific letters." She does not bring these letters up, because they are not in evidence, and do not exist. This is a lie about the evidence. In fact, there are no "letters," "other things," "testimony" or any "declaration" by Robertson about her purpose for sending the check.

- Kellogg repeatedly testified that Andrach committed forgery of Wells' name on checks. He testified that Andrach "later admitted during his deposition he, in fact, forged several checks." However, Andrach never admitted during deposition that he forged checks. In fact, if counsel knew the law it would have known that state statute expressly authorizes the signing of checks as a POA. OSB Counsel did not correct Kellogg's testimony.
- Repeatedly, the Panel specifically asks Kellogg and the Bar to point to the specific page and line in the Deposition Transcript where Andrach admitted that he forged checks. The Bar and Kellogg both promised that they would get that specific information for the Panel, but never did. In fact, it was a material misrepresentation because there is no such statement in the deposition. (Tr 105-106) Reuter specifically says he will locate the information for the Panel.
- When the Panel asks if Kellogg's statement that Andrach was taking money from his wife (Wells) to pay for his divorce from Wells can be substantiated with evidence, Johnson says the Bar "will be presenting [] a series of checks that show Mr. Andrach writing himself hundreds of thousands of dollars from Ms. Wells' account to himself." There never was any such evidence presented, and in fact there is no such evidence. During the divorce, Andrach had no access to Wells' accounts. The divorce was filed in July 2013, and proceeded through April 2014. Andrach had no access to the accounts, was not POA, or Trustee, and there is not a shred of evidence to support Johnsons statement that he wrote any checks to himself to pay for the divorce. (Tr 113-114)
- Tr381-382: In response to Steele's objection that the Bar's hypothetical is based upon facts that are not in evidence, OSB Counsel, Johnson represents to the trial panel that Kellogg testified that he asked Andrach about the \$9,500 check in deposition and what it was used for and that the evidence was that it was not used for the benefit of Wells. However, Kellogg never testified to that.
- 402:3-5. Johnson says that the Match.com costs were part of Andrach's claims for reimbursement via the Trust Deed. A lie. There are over 3 inches of exhibits which consists of the supporting documentation for the claims made in the Trust Deed. There is not a single reference to any "match.com" claim.
- 448:13-19: Johnson represents to the Panel that Klemp never reviewed the ledgers in support of the Trust Deed, but "simply draws up this legal document and records this legal document." That is not supported by any evidence, and in fact is in direct conflict with the evidence.
- 448:13-19: Johnson informs the Panel that "in fact, [Klemp] actually takes a step at collecting on this legal document [Trust Deed] when she notifies the new successor trustee." In fact, there is not a shred of evidence that Klemp ever took any steps to collect on the Trust Deed or Promissory Note. She never "notified the new successor trustee" in any such attempt to collect on the Note or Deed of Trust. This was a material misrepresentation and blatant lie.
- Tr 481-495: Johnson misrepresents the nature of the \$14,500 transaction as being a "loan" at the time Andrach filed his Bankruptcy when the Bar knew that the claim was based upon conversion. Andrach gave Wells the money to pay attorney fees before he filed Bankruptcy – which is what he stated in his Bankruptcy documents. However, once Wells was incarcerated and Andrach had access to her documents, he discovered that Wells kept the money and used it to buy herself a house, so Andrach wanted that money back. That is why it became a claim in the Trust Deed. Johnson informs the Panel that Andrach had "loaned" the money to Wells and

didn't report the "loan" in his Bankruptcy Petition which was completely factually incorrect and she knew that.

- Tr 511-512: Johnson argues to the Panel that the Bar can raise new theories during trial without regard to BR 4.2 which clearly requires that the Bar's theories need to be specifically plead. Johnson takes the position that trial by ambush and without limitations on the new theories that can be proposed is within the Bar's authority. She says the Bar is not alleging that Klemp perpetuated a fraud on the Bankruptcy Court, but that the Bar can use any theory it chooses to infer "knowledge." Reuter also concurs in the trial by ambush and violation of due process rights position. (Tr 547)
- 568-570: Reuter objects to Attorney Ed Fitch testifying because he alleges that Andrach's state of mind is not relevant, and the representations made by Andrach and Boyce to Klemp when they sought legal services from her are not material or relevant. That position flies in the face of the allegation of "fraud" which goes to "knowledge" of both Andrach and Klemp. These types of objections were presented only to interfere with Klemp's presentation of her case and any defenses to the allegations -which – even though the Bar was aware of the mitigating or exculpatory evidence – it tried to conceal or suppress from the Panel.
- 580: Johnson objected to Fitch's testifying about how Andrach and Wells managed their finances, commingled their finances and financial transactions. She objected because it went beyond the scope of "cross-examination," and "for the sake of time, we have other witnesses." This is extremely unprofessional, and demonstrates a total disregard for the process to get to the truth – rather than to just get to a "win" for the Bar. It's actually quite appalling that the Bar would not be interested in any exculpatory evidence of the lawyer – rather the Bar took the position to "win" at any cost, even if it meant to disregard the rules of due process, fairness, and justice. Notably, this was the first witness Klemp was able to call, which had to be called during the Bar's case in chief because the Bar substantially misrepresented how long its case in chief would take and prejudiced Klemp's ability to present any cohesive defense. Rather Klemp's witnesses were put on piece meal between the Bar's witnesses. The Bar said it would take 1 ½ days to try its case, when in fact it took 4 full days – going into Saturday night, and late every evening, even until 9 p.m. on Friday. Klemp wasn't able to put on her case in chief until after the Panel took a 3 month break, and the Chair even forgot what the status of the proceeding was as he asked if the proceeding had reconvened for "closing arguments." The Bar intentionally prejudiced the administration of justice throughout this proceeding.
- 615: Reuter objects to Steele cross-examining Angela Lee who took checks to the jail for Wells' signature, and who was having notarized medical releases executed by Wells on the same dates that Klemp went to the jail. He says it's outside of his narrow scope of direct, and he has "a lot of witnesses out there" as if Klemp's ability to cross-examine and fully examine a witness is immaterial and a waste of everyone's time, albeit at a point in the trial when the Bar had represented it would have already rested.
- 645: Reuter objects to Steele inquiring into Christopher Boyce's felony conviction for espionage because it's more than 15 years old – however, the Bar repeatedly declared that the Rules of Evidence do not apply so that it could present whatever testimony it wanted throughout the proceeding. Reuter then alleges that the Rules do apply. See TR 700:20-22 Reuter says the Rules of Evidence do not apply, and this same argument was made repeatedly throughout the trial.

- Tr 719: Reuter objects to Steele cross-examining Boyce about the probate business she operated wherein she represented Andrach, and represented herself as an attorney on the web. He asks the Panel that the line of questioning be cut off "in the interest of time." Notably, Klemp filed an Unlawful Practice of Law (UPL) claim against Boyce which Bar counsel wanted to sweep under the rug, and which was the basis for Boyce's retaliation against Klemp in orchestrating the Bar Complaints filed against Klemp.
- 729-730: Reuter relies upon the Rules of Evidence to object to Steele asking about Boyce's giving of legal advice to Andrach – saying that specific acts are not generally admissible to prove bad character. The Bar tried to use the Rules of Evidence when they were to its advantage, and argue that they didn't apply when it would be a disadvantage to Klemp – ie, all of the hearsay that the Bar had its witnesses testify to. Reuter then resorts to the argument that the line of questioning should be cut off because the "case that's already taken far too long."
- 774: Reuter misstates to the Panel what was requested in the Bar's Request for Production, and alleges that Boyce's deposition transcript was requested. The Bar's Request for Production did not ask for documents that would have included Boyce's deposition transcript. In fact, the request was for documents wherein Klemp gave statements. Reuter made a material misrepresentation to the trial panel.
- 780: Reuter again says that the deposition should have been produced and says that Boyce's involvement in the entire history of the issues before the Panel is not relevant. This argument by the OSB was intended to interfere with the administration of justice and the rights of the accused.
- 826-827: Reuter examined Boyce about whether Klemp did work on cases that Boyce was handling. Boyce had her own business wherein she held herself out as a probate specialist (but she was not an attorney). Boyce testified that Klemp worked on the "Harry Trust Administration" which Boyce said she took from Bryant Emerson & Fitch. However, Klemp never worked on the Harry Trust Administration, she never did any work for Boyce, and there was no evidence submitted in support thereof. Rather, this was a "defense" that Boyce conjured up -and the Bar perpetrated – in order to defeat the UPL claim that Klemp filed against Boyce.

Rather, Klemp had her own land use file and matter with Debbie Roe. The Bar allowed Boyce to lie on the stand, and I believe the same lies were perpetuated by Boyce to avoid the UPL sanctions. There is no evidence that Klemp did work for Boyce. Klemp always worked directly for the clients that she performed services for. The Bar allowed Boyce to perpetuate a fraud on the Panel through this testimony.

- Tr 966: The Bar called the notary Julie Boock as a witness. She was one of 3 people present during the 3 visits to the jail. Wells being dead, Boock and Klemp are the only 2 witnesses available to testify. Boock testified that when she read the Bar's Complaint she said that "there were a lot of inaccuracies." Reuter objected to the line of questioning, saying it is not relevant because "We're not here to decide how accurate the state bar complaint is." In fact, that is exactly what the trial was for – to determine whether the Bar's Complaint is accurate, or inaccurate. Moreover, he should have been concerned that there were allegations made that its own witness was saying, under oath, were inaccurate, rather than to try to hide the truth.

- Tr 974-975: Boock testified that she read the formal Complaint, she contacted the Bar to report that the Complaint was inaccurate, that she was told "They would get back to me," and that no one got back to her.
- 1001-1002: Johnson informs the Panel that there is evidence that Andrach signed the \$66,000 check when in fact Boock testified, put in her Declaration, and her contemporaneous memorandum, that Wells told Klemp and Boock that Wells wrote the check. Johnson further misrepresents to the Panel that Kellogg testified that "he confronted Mr. Andrach about the signing of these checks. And it was his – we specifically addressed these checks with him. And he said Mr. Andrach actually admitted to him in the deposition that he actually signed these checks. Now, if you recall, Mr. Kellogg said there were a series of checks he was going through. And he says it was this particular check that they were asking about and they were concerned about along with the \$9500 check and some others."

This is a material misrepresentation of the evidence. There was absolutely no testimony by Kellogg as stated by Johnson. In fact, Kellogg did not identify any particular checks even though the Panel had asked him to and the Bar assured it would provide the evidence and testimony in response to the Panel's repeated request. However, the Bar never did. Andrach did not testify that he wrote or signed the \$66,000 check in his deposition – because he did not write the check – Wells did. The Bar continued to materially misrepresent the evidence in its drop brief to the Panel following the trial. Accusing someone of forgery and lying to the panel about the evidence, not just once, but repeatedly, must be taken seriously.

- 1024:14-16. Reuter objects, arguing that it doesn't matter if Andrach had a legitimate Power of Attorney and was Trustee, to decide the allegations against Klemp. The Bar's Complaint is that Klemp knowingly misrepresented to the Bank that Andrach was Power of Attorney at the time he wrote a check for \$9,500 from Wells account. The entire premise of that allegation is based upon whether Andrach was legitimately holding a Power of Attorney at the time, and if he wasn't, whether Klemp knew that he wasn't. Moreover, if the POA and Trustee status are not relevant, then why did the Bar spend 2 days calling witnesses to testify about Power of Attorney and Trust documents, invocation and revocation, etc. The Bar kept changing the theory -at least as the theories were presented to the Panel – for whatever purpose it deemed fit at the time thereby prejudicing Klemp's rights and violating Bar Rule 4.2.
- 1265-1272: Johnson tells the Panel that the Bar does not have Klemp's Exhibit 201 because Defense never produced it to the Bar. This lie is outrageous because Klemp's Exhibit 201 was Klemp's first response to the Bar investigation concerning this matter. It consists of Klemp's written statement, and hundreds of pages of exhibits. The Bar has had this document-which was sent as 2 bound volumes – on November 27, 2013. The document was received by the Bar as follow up investigation was made by the Bar in response to the document and evidence. Johnson not only lied when she proclaimed that the Bar never received the document, she ignored the demonstrative evidence contained in that document in order to perpetuate the lies of her witness and to make a case against Klemp. For example, the initial Bar Complaint submitted by Ratcliffe alleged that Andrach made purchases on Wells Credit Card for Klemp. In fact, Klemp submitted in November 27, 2013, a copy of the card which had only Andrach's name on it -and absolutely no reference Wells. The charges at issue were also proven wrong. 1) Ratcliff claimed that a \$3,000 charge on the card was for the purchase of a Jeep Liberty for

Klemp. Klemp submitted document demonstrating that the charge was for Andrach's purchase of a truck for himself, and that Klemp later purchased her own Jeep and it was not a Liberty, but a Patriot. Johnson allowed Ratcliffe to perpetuate these lies during her testimony. 2) Ratcliffe said that the purchase of stuff at an adult shop was not for Wells' benefit when in fact it was a gift for Wells' best friend Dustin McFarland. This too was addressed in Andrach's deposition (an exhibit presented by the Bar (#160)) and Klemp's initial response to the Bar investigation (submitted at trial as Exhibit 201) 3) The eye glass purchases on the card were for Andrach's eyewear as demonstrated by the receipt that Klemp submitted with Exhibit 201. Johnson perpetuated the lies by the witness, concealed the evidence, and blatantly lied to the Panel and said that the Bar had never received the document Klemp submitted as Exhibit 201. She also allowed Ratcliffe to lie about Klemp taking a trip to California in September 2012. Klemp had submitted documents to the Bar (Exhibit 201) that Klemp was in Bend, at the Doctor, during the time that the charges on the credit card were made in California –therefore it was impossible that Klemp was also on a trip to California at the same time.

- 1425-1431: Johnson represents to the Panel that trial examination of Klemp is going to take a long time because she intimates that Klemp was uncooperative during deposition so it took 3 days to depose her. However, deposition was 2 days, and it was Johnson's inability to productively depose Klemp that was problematic. Moreover, Johnson didn't know the law or facts of the case during deposition. She had no idea that Wells was in Jail and/or Prison during the period of time in question. The Bar did not know the law of Bankruptcy, and even asked if Klemp took Bankruptcy cases on a Contingency Fee basis – which is completely illogical. Johnson asked Klemp to read through each letter Klemp filed in response to the Bar investigation and note any changes or corrections, line-by-line. Klemp has written hundreds of pages. It took hours to go through it all. In fact, the Bar was just ill prepared for the deposition, and did not know the facts of the case, or the substantive law that applied. The same carried through to trial wherein the Bar Counsel had still not reviewed the evidence (example -Exhibit 201) and did not know the substantive law applicable.
- 1448: Johnson misrepresents to the Panel that she only asked Ratcliffe to testify about the allegations in Ratcliffe's Bar Complaint concerning Klemp that became charges in the Formal Complaint. This is another instance where Johnson is creating new theories and asking the Panel to accept the new theories as being contained in the formal complaint. Specifically, a read of the formal complaint does not include any reference to the allegations made by Ratcliffe that Andrach bought Klemp: a Jeep, Eyeglasses, trips to California, Spa W treatments, adult shop purchases, match.com (which the Bar never demonstrated how Match.com membership by Andrach would be a benefit to Klemp – even though it spent a substantial amount of time on those expenditures at trial – which Jordan (a witness for the Bar) ultimately said was a recurring payment to the credit card set up by Wells.) Johnson repeatedly misrepresented facts, prior testimony, and evidence throughout the trial. During the 5th day of trial, the Panel became so agitated with this conduct that it stated - on the record - that she was misstating evidence and prior testimony and the Panel member was sick of it.
- 1492-1493, 1499-1502. Johnson repeatedly asks Klemp's witnesses about the affair – when an affair is completely irrelevant and not a violation of the ethical rules.
- 1550, 1556. Johnson tells the Panel that Klemp's bookkeeper, Janice Fryer, testified that "Klemp told her it was a contingency fee agreement and do not bill Ms. Boyce." Fryer did not testify as

stated by Johnson. In fact, there is no testimony anywhere that she was instructed not to bill Boyce, rather she was to send monthly invoices – which is the exact opposite of “do not bill.” The Panel even said that Johnson was misstating the testimony, and that Johnson was “putting words in her mouth.” (Tr 1550, 1556)

- 1567: Johnson says that in May 2013, Andrach “modified more than one lease” which was a blatant lie. There is no evidence in the record at all to explain away Johnson’s lie.
- 1948: Johnson tells the Panel that the allegation of the formal complaint, paragraph 24, is that Andrach “fraudulently did these transactions because they were not for the benefit of Ms. Wells when he was doing this.” When Coughlin asks specifically if that is one of the allegations in the Complaint, she replies: “Correct.” Reuter says: “yes, sir.” However, nowhere in the Complaint is this an allegation. In fact, the allegation is that Klemp shouldn’t have prepared the Promissory Note and Trust Deed because she allegedly knew that Andrach had not in fact loaned the \$53,000 secured by the Note and Trust Deed, and therefore there was no basis for the claim. Another material misrepresentation to the Panel to mislead the Panel and cause confusion

A review of the transcripts establishes that OSB counsel was clearly ill prepared for trial and deposition, and was ignorant of the laws germane to the matter. Throughout trial and deposition, counsel demonstrated incompetence and negligence pertaining to the facts of the two cases, including such important facts as to who the individuals were, when events and legal documents were executed and recorded even though failure to get those facts straight created an incorrect timeline and mischaracterized the status of legal authority pertinent to the conduct engaged in. Counsel was ignorant about who particular individuals were and particularly their status (incarcerated, under a guardianship, conservatorship, etc), conversion, dissolution. During deposition Johnson asked if Boyce and Wells were friends and went out and did things socially. Johnson had no idea that Wells was incarcerated during all times material, or that Boyce was Wells’ guardian. Counsel was also ignorant of the following areas of law: Bankruptcy, trust and estates, trust deeds, agricultural liens, power of attorney, guardianship, conservatorship, etc. Counsels’ ignorance resulted in confusion, a lengthy record, misrepresentations as to truth of law and fact, and argument that was without merit.

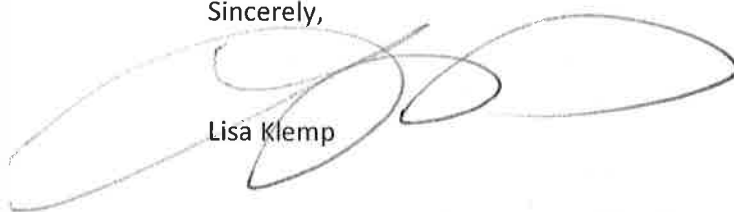
Particularly concerning was when counsel demonstrated ignorance as to the rules of professional responsibility concerning confidentiality (ORCP 1.6). During Klemp’s deposition (Dec. 10, 2015) Johnson laughed at and criticized Klemp for not contacting a non-client (Christopher Boyce) to inform him about the status of a client’s file (Cate Boyce) as a “courtesy.” She also alleged that Klemp should have informed Wells (a non-client) of the substance of conversations Klemp had with Andrach (a client). Disclosure in either situation would violate ORPC 1.6 which did not phase Johnson.

The foregoing was prejudicial to the administration of justice, and constitutes violations of the Oregon Rules of Professional Conduct, and the Oregon Revised Statutes.

Thank you for your prompt attention to this matter. I look forward to hearing from the local professional responsibility committee or an investigator appointed to investigate the matter for the SPRB. (Rule of Procedure 2.6(g))

Sincerely,

Lisa Klemp

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

October 9, 2017

Re: *Unethical conduct of attorney Robert Beau Kellogg (OSB # 104214)*

The following is the list of OSB witness, Attorney Beau Kellogg's, material misrepresentations, or blatant lies, to the Trial Panel. References are to the trial transcript.

- 79: 10-11. Testified that Wells spent some time at the Paso Robles house. There was no basis for that statement because Wells was incarcerated when the purchase closed. She never spent any time there because she was incarcerated during all times material – including when he represented her.
- 92: 8-9, 24,93:1-3. Testified that Klemp filed an agricultural lien against a property located at Crestview in Bend Oregon, and that Klemp refused to drop the lien. There was no basis for that statement because Klemp did not record the lien, and it was not Klemp's lien to release.
- Testified that Klemp represented Wells. There was no basis for that statement. There is no evidence that Klemp ever represented Wells and in fact the OSB's case was based upon Klemp having contact with an "unrepresented party."
- Testified that Klemp had an unauthorized contact with a represented party at the jail. There was no basis for this statement, in fact there is no evidence that Wells was represented in that matter, and the Bar alleged Wells was "unrepresented"
- He testified that Klemp did Andrach's Bankruptcy in October 2012, when in fact it was filed in June 2012.
- He testified that Andrach was fraudulent because he didn't disclose money received in December 2012 in his Bankruptcy petition, however, Kellogg knew the money was received long after the filing of the petition(June 2012) and even the close of the Bankruptcy (Oct. 2012).
- He adamantly testified that Robertson "put in letters, other various things that were shared with everyone" what her intention was concerning the "gift" of the \$100,000 she sent to Andrach at Christmas, 2012. However, this is an absolute lie. In fact, there are no such letters, or "other things" and if there are they certainly were not "shared with everyone." The testimony was an absolute lie to support his position. The alleged evidence does not exist.
- Kellogg repeatedly testified that Andrach committed forgery of Wells' name on checks and testified that Andrach "later admitted during his deposition he, in fact, forged several checks." In fact, Andrach never admitted during deposition that he forged any checks. Moreover, state statute expressly authorizes the signing of the checks as Andrach did, which does not constitute forgery.
- The Panel, repeatedly, specifically asks Kellogg and the Bar to point to the specific page and line in the Deposition Transcript where Andrach admitted that he forged checks as Kellogg testified. The Bar and Kellogg both promised that they would get that specific information for the Panel, but never did. In fact, it was a material misrepresentation and there is no such statement in the deposition. (Tr 105-106, 111) Reuter says he will locate the information for the Panel but never does.
- Tr 108-109. Kellogg testified that Andrach "just no-showed" for the first deposition entirely. This was a blatant lie. He knew that the Court allowed Andrach's counsel Kirstin Larson to withdraw and she rescheduled the deposition.

- He testified that Andrach withdrew from an LLC because his interest would have been “an asset of Mr. Andrach’s that could have been liquidated in the Chapter 7.” However, the LLC wasn’t organized until March 2013 – nearly a year after Andrach filed Bankruptcy, and any newly acquired assets would not be subject to liquidation in the reopening of his Bankruptcy. This was a material misrepresentation.
- Kellogg testified that Andrach was taking money from his incarcerated wife’s bank account to pay for his divorce. The Panel specifically asks if Kellogg’s statement that Andrach was taking the money to pay for his divorce from Wells can be substantiated with evidence, Johnson says the Bar “will be presenting [] a series of checks that show Mr. Andrach writing himself hundreds of thousands of dollars from Ms. Wells’ account to himself.” There never was any such evidence presented, and in fact there is no such evidence. In fact, Andrach had no access to Wells’ accounts during the time of the divorce because the divorce was filed in July 2013, and proceeded through April 2014. After July 1, 2013, Kellogg knows that Andrach had no access to the accounts, was not POA, or Trustee, and there is not a shred of evidence that he wrote any checks to himself to pay for the divorce, and there certainly is not any evidence that he wrote himself hundreds of thousands of dollars to himself to pay for the divorce. These statements are material misrepresentations and lies. (Tr 113-114)
- Kellogg testified “Honestly, I don’t know why Mr. Andrach walked out of that second deposition.” (Tr 128). Later he reluctantly admitted on cross examination that in fact he had discussions with Andrach’s lawyer, Steve Baldwin, that Kellogg had “blindsided” him because he didn’t inform Baldwin about the criminal implications that Kellogg was making during the deposition, so Baldwin, as attorney for Andrach, asserted the fifth amendment and left. Kellogg lied to Panel.
- Kellogg testified that there were letters, and an affidavit prepared by Robertson that make it clear that not a penny of the \$100,000 was to go to Andrach. Again, no such evidence was produced by the Bar or Kellogg, because it does not exist! In fact, his testimony is at odds with what the ONLY letter in evidence says. In her letter, she specifically gives Andrach at least a penny of the money. So Kellogg’s unequivocal testimony is at odds with the only evidence as to her intent and he lied about the existence of other evidence to the contrary.
- Kellogg testified that he “had a significant amount of information suggesting that in September 2012 a romantic relationship” existed between Andrach and Klemp. There is no such information, and if there was it would have been put into evidence by the Bar. This was just a lie.
- Kellogg testified that during his deposition of Andrach, that Andrach testified that Klemp accompanied him on a trip to California in September 2012. (Tr 200-202) This is a lie. Not only was Klemp not on the trip, Andrach did not testify that she was. In addition, Klemp submitted evidence in response to the first OSB investigation demonstrating that she was at the Doctor in Bend, Oregon during the time of the trip.
- Kellogg testified that there were a number of credit card charges in September 2012 for the benefit of Klemp. In fact, there is no such evidence. (Tr 202) Another lie.
- Kellogg testified that Match.com were charges by Andrach. In fact, the testimony by Linda Jordan was that the Match.com charges were Wells’ (a recurring charge for the dating web site she liked to use).

The foregoing constitutes material misrepresentations made to a tribunal in violation of the ethical rules. Moreover, the OSB Counsel never corrected the misrepresentations and in some circumstances even perpetuated the misrepresentation further. The foregoing demonstrates Kellogg's total disregard to be truthful in his statements to others and/or to a tribunal. What's most appalling is that he is freely dishonest and fast and loose with the truth even while he is under oath!!

Thank you for your attention to this serious matter.

/s/ Lisa Klemp

Lisa Klemp
PO Box 457
Redmond, OR 97756
lisa@redmond-lawyers.com

Lisa Klemp
Attorney at Law
888 SW Evergreen Ave
P.O. Box 457
Redmond, Oregon 97756

September 13, 2017

***SENT VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED***

Helen Hierschbiel, Executive Director and CEO
16037 SW Upper Boones Ferry Rd
PO Box 231935
Tigard, OR 97281-1935

Re: Statutory Tort Claim Notice: Lisa Klemp

Dear Ms. Hierschbiel:

This letter constitutes statutory tort claim notice pursuant to ORS 30.275 that a claim will be asserted against the Oregon State Bar, its officers, employees, and agents for damages arising out of the prosecution of the matters *In re Lisa D.T. Klemp*, case numbers: 14-128 and 15-01.

The Oregon State Bar's handling of the matter was negligent, reckless, and even amounted to intentional disregard for the rights of Klemp in several circumstances. As a result, Klemp continues to suffer damages.

First, the investigation of the Bar Complaints never proceeded through the ordinary course with initial review by the Client Assistance Office, but rather was directly assigned to Disciplinary Counsel. Klemp submitted over 200 pages of documents as evidence in response to the initial inquiry from the OSB. At trial, OSB Counsel argued to the Trial Panel that it had never seen or received the documents. Therefore, OSB Counsel either was never provided the documents, or Counsel made a material misrepresentation to the Trial Panel. Either situation is extremely prejudicial to Klemp.

The OSB has repeatedly provided information that was false and defamatory to the media which was published in the newspaper and remains on the internet. The mental anguish caused by the first publication sent Klemp into pre-mature labor and an emergency C-Section. The false and defamatory statements published impacted Klemp's ability to practice law and she had to close her practice.

Klemp repeatedly contacted the Bar concerning the status of the matter because it was significantly impacting Klemp's personal and professional life. Staff informed Klemp that the "box" had been put in a closet in July and left there for over 4 months. Klemp requested that the matter be addressed asap. In a seemingly rushed and incautious effort, the OSB presented the matter to the SPRB with material misrepresentation of the facts and dates of events thereby

creating an erroneous time line of events from which impropriety was alleged. Accordingly, misled by the misrepresentations, the SPRB directed that a Formal Complaint be issued. This is particularly egregious because the misrepresented facts and dates were clearly established in documents (dates of signatures, dates of county recording, receipts, names on documents, etc).

At trial, a witness testified that after reviewing the Complaint, she tried to contact the OSB to inform it that allegations in the Complaint were not true, as she was the only other witness to the event at issue. She testified that "no one would get back to her." When the Trial Panel inquired about the witnesses claim, OSB Counsel's defense was that they were not the attorneys that drafted the complaint.

The OSB counsel was ill-prepared for deposition and trial. Counsel did not know the facts and the substantive law. Counsel also chided Klemp for not violating the ethical rules of confidentiality and privilege. In one instance, Johnson boisterously laughed at Klemp during deposition and postured that Klemp should have contacted Mr. Boyce (a non-client), - as a "courtesy" - to provide him with confidential, privileged information concerning his wife's legal file. In another matter, Johnson argued that Klemp should have informed Lauren Wells (a non-client) about the substance of a communication Klemp had with Klemp's client (Andrach), Wells' husband.

Johnson also had no idea that one of the key characters, Lauren Wells, was in jail or prison during all times material as she asked if Wells engaged in social outings (shopping, movies, dinners) with Cait Boyce. She also had no idea that Wells had a Guardian, or that the guardian appointed was Cait Boyce. All information that had been submitted to the OSB over 2 years before the deposition.

Counsel repeatedly demonstrated ignorance of the substantive laws. In one instance, Johnson demonstrated this when she asked if Klemp represented her Bankruptcy clients on a "contingence fee basis." At trial, OSB Counsel asked Klemp why a Chapter 7 Bankruptcy wasn't reopened by her client to report income he earned after his Chapter 7 Bankruptcy was filed. The entire premise of both lines of questions is illogical. Counsel also spent considerable time alleging that even with a POA, an Agent's signature constitutes forgery. Obviously Counsel was ignorant of the statute expressly authorizing an Agent's signature. Counsel also demonstrated a lack of knowledge concerning: Uniform Trust Code, Commercial Code, estate planning, Agricultural Lien law, Power of Attorney, and Trust Deeds. In fact, Counsel continually argued that the Trust Deed and an Agricultural Lien at issue were one and the same.

During trial, OSB counsel continually misstated the evidence and the facts, mislead the Panel, and made material misrepresentations concerning the evidence that the OSB would be producing in an effort to overcome objections concerning its line of questioning. (See List of Material Misrepresentations) OSB counsel also allowed witnesses to lie on the stand about facts and evidence without correcting the material misrepresentations, in violation of the ethical rules. (See Beau Kellogg list of misrepresentations)

Finally, the decision of the Panel was split with Max Taggart finding that both cases against Klemp should be dismissed entirely because the OSB did not prove its case. The Majority Opinion was written by David Coughlin (Attorney-retired), and consented to by William Olsen (a citizen). Throughout the trial Olsen made statements that he did not understand what was relevant, and did not understand the applicable laws. Coughlin made

irrational statements, he demonstrated through his statements and actions that he was easily confused, and even spent over 45 minutes questioning a witness about his professional opinion as to whether Klemp violated the ethical rules - a line of questioning which is strictly prohibited by the Rules. Coughlin's inability to manage the trial and his disposition for confusion, combined with the OSB's misrepresentations, lack of focus, and overall lack of preparedness generated a huge record which is replete with confusion, convoluted evidence, and incorrect and unsubstantiated statements of law and fact. During trial, Coughlin often commented that the matter was akin to a spaghetti bowl, that someone should have called Jerry Springer, and repeatedly, even on the last day of trial, stated that if the OSB had connected all of the alleged conduct of Klemp's client to Klemp that he "had missed it."

The 54 day Rule concerning the time to try the case was completely disregarded in its entirety. The OSB represented that it would be able to try its case in a day and a half. In fact, the OSB took 4 days, which pushed trial late into the evenings (9 p.m.), and into the weekend (Saturday), and then adjourned and resumed 3 months later. At the outset of the continuance, Coughlin asked whether everyone was there for Closing Arguments - to which Klemp's Counsel informed him that in fact the Bar had only rested at the close of the prior setting, and the trial was resuming for Klemp to finally present her case. Throughout the trial, Coughlin stated that the Panel had already decided certain issues - before Klemp even presented her case. Klemp was not able to put on a cohesive defense, and the presentation of her case was substantially impaired and prejudiced by the OSB's poor planning and misrepresentation as to its presentation of its case.

After the conclusion of trial, the Panel took more than 8 months to issue its decision (again without regard to the Rules, or Coughlin even getting the proper authorization to continue the deadline). After making several efforts to draft the Majority Opinion, Coughlin penned a decision that clearly demonstrates that he was suffering from cognitive impairment and should not have been a member of the Trial Panel. Most astounding is the findings of fact wherein Coughlin sets forth a set of facts concerning a matter involving a \$9,500 check. The facts as presented by Coughlin are completely fabricated as neither the OSB nor Klemp ever presented the facts set forth by Coughlin and there is no evidence that even comes close to what he finds. (See TLA \$9,500 check issue) The balance of the decision is also riddled with evidence of cognitive impairment and a lack of understanding and confusion as to the facts, characters, events, dates, etc.

Klemp has now learned that within weeks from issuing the Majority Opinion recommending disbarment, Coughlin retired due to cognitive issues, closed his practice, and was to undergo intensive testing. Neither the OSB, nor Coughlin, ever disclosed that Coughlin was suffering from cognitive impairment or mental health issues to Klemp or her Counsel.

As a result of the foregoing, Klemp was deprived of her right to Due Process, and continues to suffer harm.

Klemp had to appeal the decision to the Oregon Supreme Court. To date, the OSB has not informed the Court of Coughlin's mental health impairment. Although Coughlin's family said he does not want to make his mental health issues public, his conduct has caused and continues to cause Klemp substantial injury, and threatens to cause further harm.

Thank you for your attention to this matter.

Sincerely,

Lisa Klemp

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned over the printed name 'Lisa Klemp'.

Enclosures

List of OSB Counsel material misrepresentations to the Trial Panel:

- Tr12:10-12. Counsel says Klemp and Andrach met "during the beginnings of the Exchange litigation"
- Tr 101-102. Counsel perpetuated the lie by Kellogg about the existence of letters from Lee Robertson that state what her intent was for the \$100,000. In response to the Panel's questioning about the evidence, Johnson lies to the Panel and says that "there's a declaration of Ms. Robertson that is in evidence, ... and there will also be other letters from Ms. Robertson." Taggart specifically asks if they're already in evidence, and Johnson says they are. She further says she "will be bringing up with witnesses those specific letters." She does not bring these letters up, because they are not in evidence, and do not exist. This is a lie about the evidence.
- Kellogg repeatedly testified that Andrach committed forgery of Wells' name on checks and testified that Andrach "later admitted during his deposition he, in fact, forged several checks." In truth, Andrach never admitted during deposition that he forged any checks, and moreover state statute expressly authorizes the signing of the checks as Andrach as POA.
- The Panel, repeatedly, specifically asks Kellogg and the Bar to point to the specific page and line in the Deposition Transcript where Andrach purportedly admitted that he forged checks. The Bar and Kellogg both promised that they would get that specific information for the Panel, but never did. In fact, it was a material misrepresentation and there is no such statement in the deposition. (Tr 105-106) Reuter specifically says he will locate the information for the Panel.
- When the Panel asks if Kellogg's statement that Andrach was taking the money to pay for his divorce from Wells can be substantiated with evidence, Johnson says the Bar "will be presenting [] a series of checks that show Mr. Andrach writing himself hundreds of thousands of dollars from Ms. Wells' account to himself." There never was any such evidence presented, and in fact there is no such evidence. During the divorce, Andrach had no access to Wells' accounts. The divorce was filed in July 2013, and proceeded through April 2014. Andrach had no access to the accounts, was not POA, or Trustee, and there is not a shred of evidence to support Johnson's statement that he wrote any checks to himself to pay for the divorce. (Tr 113-114)
- Tr381-382: In response to Steele's objection that the Bar's hypothetical is based upon facts that are not in evidence, Johnson represents to the trial panel that Kellogg testified that he asked Andrach about the \$9,500 check in deposition and what it was used for and that the evidence was that it was not used for the benefit of Wells. In truth, Kellogg never testified to that.
- 402:3-5. Johnson says that the Match.com costs were part of Andrach's claims for reimbursement via the Trust Deed. A lie.
- 448:13-19: Johnson represents to the Panel that Klemp never reviewed the ledgers in support of the Trust Deed, but "simply draws up this legal document and records this legal document." That is not supported by any evidence, and in fact is in direct conflict with all of the evidence.
- 448:13-19: Johnson informs the Panel that "in fact, [Klemp] actually takes a step at collecting on this legal document [Trust Deed] when she notifies the new successor trustee." In fact, there is not a shred of evidence that Klemp ever took any steps to collect on the Trust Deed or Promissory Note. She never "notified the new successor trustee" in any such attempt to collect on the Note or Deed of Trust. This was a material misrepresentation and blatant lie.
- Tr 481-495: Johnson misrepresents the nature of the \$14,500 transaction as being a "loan" at the time Andrach filed his Bankruptcy when the Bar knew, as the evidence clearly stated,

Andrach gave Wells the money to pay attorney fees before he filed Bankruptcy – which is what he stated in his Bankruptcy documents. However, once Wells was incarcerated and Andrach had access to her documents, he discovered that Wells kept the money and used it to buy herself a house, so Andrach wanted that money back as addressed in the Trust Deed. Johnson informs the Panel that Andrach had “loaned” the money to Wells and didn’t report the “loan” in his Bankruptcy Petition which was completely factually incorrect and she knew that.

- Tr 511-512: Johnson argues to the Panel that the Bar can raise new theories during trial without regard to BR 4.2 which clearly establishes that the theories need specifically to be plead. Johnson takes the position that trial by ambush and without limitations on the new theories that can be proposed is within the Bar’s authority. She says the Bar is not alleging that Klemp perpetuated a fraud on the Bankruptcy Court, but that the Bar can use any theory it chooses to infer “knowledge.” Reuter also concurs in the trial by ambush and violation of due process rights position. (Tr 547)
- 568-570: Reuter objects to Attorney Ed Fitch testifying because he alleges that Andrach’s state of mind is not relevant, and the representations made by Andrach and Boyce to Klemp when they sought legal services from her are not material or relevant. That position flies in the face of the allegation of “fraud” which goes to “knowledge” of both Andrach and Klemp. These types of objections were presented only to interfere with Klemp’s presentation of her case and any defenses to the allegations -which – even though the Bar was aware of the mitigating or exculpatory evidence – tried to conceal or suppress from the Panel.
- 580: Johnson objected to Fitch’s testifying about how Andrach and Wells managed their finances, commingled their finances and financial transactions. She objected because it went beyond the scope of “cross-examination,” and “for the sake of time, we have other witnesses.” This is extremely unprofessional, and demonstrates a total disregard for the process to get to the truth – rather than to just get to a “win” for the Bar. It’s actually quite appalling that the Bar would not be interested in any exculpatory evidence of the lawyer – rather the Bar took the position to “win” at any cost, even if it meant to disregard the rules of due process, fairness, and justice. Notably, this was the first witness Klemp was able to call, which had to be called during the Bar’s case because the Bar substantially misrepresented how long its case in chief would take and prejudiced Klemp’s ability to present any cohesive defense. Rather Klemp’s witnesses were put on piece meal between the Bar’s witnesses. The Bar said it would take 1 ½ days to try its case, when in fact it took 4 full days – going into Saturday night, and late every evening, even until 9 p.m. on Friday. Klemp wasn’t able to put on her case in chief until after the Panel took a 3 month break, and the Chair even forgot what the status of the proceeding was as he asked if the proceeding had reconvened for “closing arguments.” The Bar intentionally prejudiced the administration of justice throughout this proceeding.
- 615: Reuter objects to Steele cross-examining Angela Lee who took checks to the jail for Wells’ signature, and who was having notarized medical releases executed by Wells on the same dates that Klemp went to the jail. He says it’s outside of his narrow scope of direct, and he has “a lot of witnesses out there” as if Klemp’s ability to cross-examine and fully examine a witness is immaterial and a waste of everyone’s time, albeit at a point in the trial when the Bar had represented it would have already rested.
- 645: Reuter objects to Steele inquiring into Christopher Boyce’s felony conviction for espionage because it’s more than 15 years old – however, the Bar repeatedly declared that the Rules of

Evidence do not apply so that it could present whatever testimony it wanted throughout the proceeding. Reuter then alleges that the Rules do apply. See TR 700:20-22 Reuter says the Rules of Evidence do not apply, and this same argument was made repeatedly throughout the trial.

- Tr 719: Reuter objects to Steele cross-examining Boyce about the probate business she operated wherein she represented Andrach, and represented herself as an attorney on the web. He asks the Panel that the line of questioning be cut off "in the interest of time." Notably, Klemp filed an Unlawful Practice of Law (UPL) claim against Boyce which Bar counsel wanted to sweep under the rug, and which was the basis for Boyce's retaliation against Klemp in orchestrating the Bar Complaints filed against Klemp.
- 729-730: Reuter relies upon the Rules of Evidence to object to Steele asking about Boyce's giving of legal advice to Andrach – saying that specific acts are not generally admissible to prove bad character. The Bar tried to use the Rules of Evidence when they were to its advantage, and argue that they didn't apply when it would be a disadvantage to Klemp – ie, all of the hearsay that the Bar had its witnesses testify to. Reuter then resorts to the argument that the line of questioning should be cut off because the "case that's already taken far too long."
- 774: Reuter misstates to the Panel what was requested in the Bar's Request for Production, and alleges that Boyce's deposition transcript was requested. The Bar's Request for Production did not ask for documents that would have included Boyce's deposition transcript. In fact, the request was for documents wherein Klemp gave statements.
- 780: Reuter again says that the deposition should have been produced and says that Boyce's involvement in the entire history of the issues before the Panel is not relevant.
- 826-827: Reuter examined Boyce as to whether Klemp did work for cases that Boyce was handling and Boyce testified that Klemp worked on the "Harry Trust Administration" which Boyce said she took from Bryant Emerson & Fitch. Klemp never worked on the Harry Trust Administration, and never did work for Boyce. In fact, Klemp had her own land use file and matter with Debbie Roe. The Bar allowed Boyce to lie on the stand, and I believe the same lies were perpetuated by Boyce to avoid the UPL sanctions. There is no evidence that Klemp did work for Boyce. Klemp always worked directly for the clients that she performed services for. The Bar allowed Boyce to perpetuate a fraud on the Panel through this testimony.
- Tr 966: The Bar called the notary Julie Boock as a witness. She was one of 3 people present during the 3 visits to the jail. Wells being dead, Boock and Klemp are the only 2 witnesses available to testify. Boock testified that when she read the Bar's Complaint she said that "there were a lot of inaccuracies." Reuter objected to the line of questioning, saying it is not relevant because "We're not here to decide how accurate the state bar complaint is." In fact, that is exactly what the trial was for – to determine whether the Bar's Complaint is accurate, or inaccurate. Moreover, he should have been concerned that there were allegations made that its own witness was saying, under oath, were inaccurate, rather than to try to hide the truth.
- Tr 974-975: Boock testified that she read the formal Complaint, she contacted the Bar to report that the Complaint was inaccurate, that she was told "They would get back to me," and that no one got back to her.
- 1001-1002: Johnson informs the Panel that there is evidence that Andrach signed the \$66,000 check when in fact Boock testified, put in her Declaration, and her contemporaneous memorandum, that Wells told Klemp and Boock that Wells wrote the check. Johnson further

misrepresents to the Panel that Kellogg testified that "he confronted Mr. Andrach about the signing of these checks. And it was his – we specifically addressed these checks with him. And he said Mr. Andrach actually admitted to him in the deposition that he actually signed these checks. Now, if you recall, Mr. Kellogg said there were a series of checks he was going through. And he says it was this particular check that they were asking about and they were concerned about along with the \$9500 check and some others."

This is a material misrepresentation of the evidence. There was absolutely no testimony by Kellogg as stated by Johnson. In fact, Kellogg did not identify any particular checks even though the Panel had asked him to and the Bar assured it would provide the evidence and testimony in response to the Panel's request. However, the Bar never did. Andrach did not testify that he wrote or signed the \$66,000 check in his deposition – because he did not write the check – Wells did. The Bar continued to materially misrepresent the evidence in its drop brief to the Panel following the trial. Accusing someone of forgery and lying to the panel about the evidence, not just once, but repeatedly, must be taken seriously.

- 1024:14-16. Reuter objects, arguing that it doesn't matter if Andrach had a legitimate Power of Attorney and was Trustee, to decide the allegations against Klemp. The Bar's Complaint is that Klemp knowingly misrepresented to the Bank that Andrach was Power of Attorney at the time he wrote a check for \$9,500 from Wells account. The entire premise of that allegation is based upon whether Andrach was legitimately holding a Power of Attorney at the time, and if he wasn't, whether Klemp knew that he wasn't. The entire Complaint could be parsed through to demonstrate that in fact whether Andrach was legitimately a Power of Attorney or Trustee to demonstrate the absurdity to this argument in an effort to interfere with Klemp's defense of the case. Moreover, if the POA and Trustee status are not relevant, then why did the Bar spend 2 days calling witnesses to testify about Power of Attorney and Trust documents, invocation and revocation, etc. The Bar kept changing the theory -at least as the theories were presented to the Panel – for whatever purpose it deemed fit at the time thereby prejudicing Klemp's rights.
- 1265-1272: Johnson tells the Panel that the Bar does not have Klemp's Exhibit 201 because Defense never produced it to the Bar. This lie is outrageous because Klemp's Exhibit 201 was Klemp's first response to the Bar investigation concerning this matter. It consists of Klemp's written statement, and hundreds of pages of exhibits. The Bar has had this document-which was sent as 2 bound volumes – on November 27, 2013. The document was received by the Bar as follow up investigation was made by the Bar in response to the document and evidence submitted therein. Johnson, not only lied about the Bar never receiving the document, she ignored the demonstrative evidence contained in that document in order to perpetuate the lies of her witness and to make a case against Klemp. For example, the initial Bar Complaint submitted by Ratcliffe alleged that Andrach made purchases on Wells Credit Card for Klemp. In fact, Klemp submitted in November 27, 2013, a copy of the credit card which had only Andrach's name on it -and absolutely no reference Wells. The charges at issue were also proven wrong. 1) Ratcliff claimed that a \$3,000 charge on the card was for the purchase of a Jeep Liberty for Klemp. Klemp submitted document demonstrating that the charge was for Andrach's purchase of a truck for himself, and that Klemp later purchased her own Jeep and it was not a Liberty, but a Patriot. Johnson allowed Ratcliffe to perpetuate these lies during her testimony. 2) Ratcliffe said that the purchase of stuff at an adult shop was not for Wells' benefit when in fact it was a

gift for Wells' best friend, who's gay, Dustin McFarland. This too was addressed in Andrach's deposition (an exhibit presented by the Bar (#160)) and Klemp's response to the Bar investigation. 3) The eye glass purchases on the card were for Andrach's eyewear as demonstrated by the receipt that Klemp submitted with Exhibit 201 in November 27, 2013. Johnson perpetuated the lies by the witness, concealed the evidence, and blatantly lied to the Panel and said that the Bar had never received the document Klemp submitted as Exhibit 201. She also allowed her to lie about Klemp taking a trip to California in September 2012, when Klemp submitted evidence to the Bar during the investigation that Klemp was in Bend, at the Doctor, during the time that the charges on the credit card were made in California – because Klemp did not go on the trip to California in September 2012.

- 1425-1431: Johnson represents to the Panel that examination of Klemp is going to take a long time because she intimates Klemp was uncooperative so it took 3 days to depose Klemp. In fact, Johnson couldn't ask a decent or coherent question during deposition, and didn't know the law or facts of the case during deposition. That's what took so long. She had no idea that Wells was in Jail or Prison during the period of time in question. The Bar did not know the law of Bankruptcy, and even asked if Klemp took Bankruptcy cases on a Contingency Fee basis – which is completely absurd. Johnson asked Klemp to read through each letter Klemp filed in response to the Bar investigation and note any changes or corrections, line-by-line. Klemp has written hundreds of pages, which took hours to address. In fact, the Bar was just ill prepared for the deposition, and did not know the facts of the case, or the substantive law that applied. The same carried through to trial wherein the Bar Counsel had still not reviewed the evidence (example -Exhibit 201) and did not know the substantive law applicable.
- 1448: Johnson misrepresents to the Panel that she only asked Ratcliffe about the allegations in Ratcliffe's Bar Complaint concerning Klemp that became charges in the Formal Complaint. This is another instance where Johnson is creating new theories and asking the Panel to accept the new theories as being contained in the formal complaint somehow. Specifically, a read of the formal complaint does not include any reference to the allegations made by Ratcliffe that Andrach bought Klemp: a Jeep, Eyeglasses, trips to California, Spa W treatments, adult shop purchases, match.com (which the Bar never demonstrated how Match.com membership by Andrach would be a benefit to Klemp – even though it spent a substantial amount of time on those expenditures at trial – which Jordan (a witness for the Bar) ultimately said was a recurring payment to the credit card set up by Wells.
- 1492-1493, 1499-1502. Johnson repeatedly asks Klemp's witnesses about the affair – when an affair is completely irrelevant and not a violation of the ethical rules.
- 1550, 1556. Johnson tells the Panel that Klemp's bookkeeper, Janice Fryer, testified that "Klemp told her it was a contingency fee agreement and do not bill Ms. Boyce." Fryer did not testify as stated by Johnson. In fact, there is no testimony anywhere that she was instructed not to bill Boyce, rather she was to send monthly invoices – which is the exact opposite of "do not bill." The Panel even said that Johnson was misstating the testimony, and that Johnson was "putting words in her mouth." (Tr 1550, 1556)
- 1567: Johnson says that in May 2013, Andrach "modified more than one lease" which was a blatant lie. There is no evidence in the record at all to explain away Johnson's lie.
- 1948: Johnson tells the Panel that the allegation of the formal complaint, paragraph 24, is that Andrach "fraudulently did these transactions because they were not for the benefit of Ms. Wels

when he was doing this." When Coughlin asks specifically if that is one of the allegations in the Complaint, she replies: "Correct." Reuter says: "yes, sir." However, nowhere in the Complaint is this an allegation. In fact, the allegation is that Klemp shouldn't have prepared the Promissory Note and Trust Deed because she allegedly knew that Andrach had not in fact loaned the \$53,000 secured by the Note and Trust Deed, and therefore there was no basis for the claim. Another material misrepresentation to the Panel to mislead the Panel and cause confusion

List of OSB witness, Beau Kellogg's, material misrepresentations to the Trial Panel:

- 79: 10-11. Says Wells spent some time at the Paso Robles house. (she was incarcerated when the purchase closed and she never spent any time there because she was incarcerated.)
- 92: 8-9, 24,93:1-3. Said Klemp filed the Ag Lien against the Crestview Property, and Klemp refused to drop the lien. (Klemp did not record the lien, and it was not Klemp's lien to release)
- Says Klemp represented Wells when there is no evidence that Klemp ever represented Wells.
- Says Klemp had an unauthorized contact with a represented party at the jail but there is no evidence that Wells was represented in that matter, and the Bar alleged Wells was "unrepresented"
- He said Klemp did Andrach's Bankruptcy in October 2012 when in fact it was filed in June 2012.
- He said Andrach didn't disclose money received in December 2012 in his Bankruptcy petition when Kellogg knew the money was received long after the filing of the petition which was done in June 2012.
- He said Robertson "put in letters, other various things that were shared with everyone" what her intention was concerning the "gift" of the \$100,000 she sent to Andrach at Christmas, 2012. However, there are no such letters, they do not exist. This is a lie.
- Kellogg repeatedly testified that Andrach committed forgery of Wells' name on checks and testified that Andrach "later admitted during his deposition he, in fact, forged several checks." In fact, Andrach never admitted during deposition that he forged any checks, and in fact state statute expressly authorizes the signing of the checks as Andrach did, which does not constitute forgery.
- The Panel, repeatedly, specifically asks Kellogg and the Bar to point to the specific page and line in the Deposition Transcript where Andrach purportedly admitted that he forged checks. The Bar and Kellogg both promised that they would get that specific information for the Panel, but never did. In fact, it was a material misrepresentation and there is no such statement in the deposition. (Tr 105-106, 111) Reuter says he will locate the information for the Panel but never does.
- Tr 108-109. Kellogg said Andrach "just no-showed" for the first deposition entirely. This was a lie. He knew that the Court allowed Andrach's counsel Kirstin Larson to withdraw and rescheduled the deposition.
- He said that Andrach withdrew from TLA because his interest would have been "an asset of Mr. Andrach's that could have been liquidated in the Chapter 7." TLA wasn't organized until March 2013 – nearly a year after Andrach filed Bankruptcy, and any newly acquired assets would not be subject to liquidation in the reopening of his Bankruptcy. This was a material misrepresentation.
- When the Panel asks if Kellogg's statement that Andrach was taking the money to pay for his divorce from Wells can be substantiated with evidence, Johnson says the Bar "will be presenting [] a series of checks that show Mr. Andrach writing himself hundreds of thousands of dollars from Ms. Wells' account to himself." There never was any such evidence presented, and in fact there is no such evidence. In fact, Andrach had no access to Wells' accounts during the time of the divorce because the divorce was filed in July 2013, and proceeded through April 2014. Andrach had no access to the accounts, was not POA, or Trustee, and there is not a shred of evidence that he wrote any checks to himself to pay for the divorce. (Tr 113-114)

- He testified "Honestly, I don't know why Mr. Andrach walked out of that second deposition." (Tr 128). Later he admitted that in fact he had discussions with Andrach's lawyer, Steve Baldwin, that Kellogg had "blindsided" him because he didn't inform Baldwin about the criminal implications that Kellogg was making during the deposition, so they asserted the fifth amendment and left.
- He testified that there were letters, and an affidavit prepared by Robertson making it clear that not a penny of the \$100,000 was to go to Andrach. No such evidence was produced by the Bar or Kellogg, because it does not exist. Her letter also specifically gives Andrach at least a penny of the money, so that was not her specific intent.
- Kellogg testifies that Klemp recorded the Ag Lien in Deschutes County. In fact, Andrach did, not Klemp.
- Kellogg testified that he "had a significant amount of information suggesting that in September 2012 a romantic relationship" existed between Andrach and Klemp. There is no such information, and if there was it would have been put into evidence by the Bar. This was just a lie.
- Kellogg says Andrach testified in deposition that Klemp was on the California trip in September. (Tr 200-202) This is a lie. Not only was Klemp not on the trip, Andrach did not testify that she was: Klemp submitted evidence in response to the first OSB investigation demonstrating that she was at the Doctor in Bend, Oregon during the time of the trip.
- Kellogg testified that there were a number of credit card charges in September 2012 for the benefit of Klemp. In fact, there is no such evidence. (Tr 202)
- Kellogg testified that Match.com were charges by Andrach. In fact, the testimony by Linda Jordan was that the Match.com charges were Wells' (a recurring charge for the dating web site she liked to use).

The foregoing constitutes material misrepresentations made to a tribunal in violation of the ethical rules. Moreover, the OSB Counsel never corrected the misrepresentations and in some circumstances even perpetuated the misrepresentation further.

IN THE SUPREME COURT
OF THE STATE OF OREGON

In re:)	Case Nos. 17-89, 17-90, 17-109, 18-08 & 18-43
Complaint as to the Conduct of)	
ANDREW LONG,)	OREGON STATE BAR'S RESPONSE TO
Respondent.)	RESPONDENT'S [FOURTH] MOTION TO
)	CONTINUE (REMEDY DUE PROCESS)

The Oregon State Bar ("Bar") responds to Respondent, Andrew Long's ("Long"), attached [Fourth] Motion to Continue Trial to Remedy Due Process Violations and Address Ethical Violations (Ex 1)¹ as follows:

BACKGROUND

On December 20, 2017, the Oregon Supreme Court ordered Long's immediate suspension under BR 3.1(g)(1) (2017). Following hearing, which dealt with many of the same issues alleged in these proceedings, the Court issued an order, presumably pursuant to BR 3.1(e) (2017), upholding its prior suspension of Long. When a lawyer is temporarily suspended pursuant to BR 3.1(e) (2017), the Bar's complaint against the respondent shall thereafter proceed and be determined at an accelerated pace. BR 3.1(i) (2017). Long's third last-minute motion for a continuance runs contrary to the BRs and the Court's order in this case and—because of the accelerated time limitations for entry of the trial panel opinion—could impact the order of suspension which the Court deemed necessary in this matter. See BR 3.1(i) & (j) (2017).

¹ Exhibit consists of motion only, without referenced exhibits A & B.

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10 At the BR 3.1 hearing, the Bar consented to Long's demand that the 2018
11 procedural rules be utilized, notwithstanding the fact that the Special Master was
12 appointed under the 2017 rules. The only practical difference of the rules on BR 3.1

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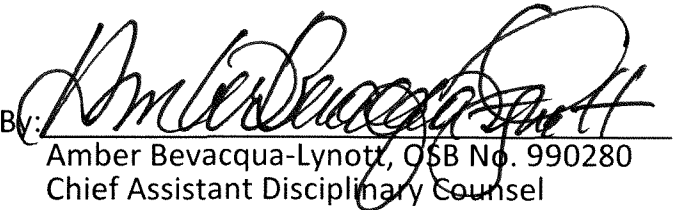
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1 For the reasons stated above, the Bar respectfully request that the Adjudicator
2 deny Long's [Fourth] Motion to Continue Trial to Remedy Due Process Violations and
3 Address Ethical Violations.

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5 EXECUTED this 31st day of July, 2018.

6 OREGON STATE BAR

7
8 By: 
9 Amber Bevacqua-Lynott, OSB No. 990280
Chief Assistant Disciplinary Counsel

10 Nik Chourey, OSB No. 060478
11 Assistant Disciplinary Counsel
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Oregon State Bar

December 13, 2017

VIA EMAIL AND FIRST CLASS MAIL

Andrew Long
EA Long Legal, PC
610 SW Broadway, Suite 510
Portland, OR 97205
andrewlongpdx@gmail.com

Re: Case No. 17-109— Andrew Long (Beth Creighton)

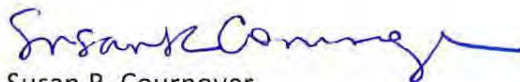
Dear Mr. Long:

As a follow-up to my December 11, 2017 letter to you, please be advised that the Rules of Procedure, which govern disciplinary proceedings, will be amended effective January 1, 2018. The amended rules will apply to this case.

The Oregon Supreme Court's implementation order, which contains a "redlined" version of the changes, can be found at www.publications.ojd.state.or.us/docs/RULE239.pdf.

If you have any questions, please contact Nik Chourey or me.

Very truly yours,



Susan R. Cournoyer
Assistant Disciplinary Counsel
Extension 324
scournoyer@osbar.org

SRC:jcs

cc: Beth Creighton

IN THE SUPREME COURT
OF THE STATE OF OREGON

IN RE:)
)
Complaint as to the Conduct of:) Case Nos. 17-79,
) 17-86, 17-87,
) 17-88, 17-89, and
ANDREW LONG,) 17-90
)
Respondent.) SC No. N007129
_____)

HEARING OF ANDREW LONG
Transcript of Proceedings

* * *

Monday, February 12, 2018
Portland, Oregon

* * *

VOLUME I
Pages 1 - 316

Reported by:
Shellene L. Iverson, CSR, CCR

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JUDGE BALDWIN: Okay. All right. Okay.

So I think that covers the preliminary matters.

I also did have a question about what Bar Rules applied to this proceeding, whether the 2018 Bar Rules apply or the 2017.

MR. CHOUREY: Thank you, Judge. You were

1 appointed as our special -- special master in 2017.
2 As a result of that appointment, the bar submits that
3 the 2017 rules apply; otherwise, we'd be here in front
4 of Adjudicator Turner. That is our position on that.

5 JUDGE BALDWIN: Okay. The trial panel was
6 appointed in this case January 29th of this year;
7 right?

8 MR. CHOUREY: That's correct.

9 JUDGE BALDWIN: Does that have a bearing
10 on which rules apply?

11 MR. CHOUREY: We would argue that the 2018
12 rules will apply to our formal proceeding because the
13 panel was appointed in 2018.

14 MR. LONG: Your Honor, I seem to recall --
15 I might be mistaken. I don't have it with me, but I
16 seem to recall receiving a letter from Ms. Cournoyer
17 at the bar informing me two months ago that the 2018
18 rules would apply. That's what I expected to apply.
19 I'm not saying that I necessarily have a preference.
20 I'm generally aware of the difference, but that's what
21 I anticipated.

22 JUDGE BALDWIN: Okay. Doesn't appear to
23 be that much of a substantive difference between the
24 rules.

25 MR. LONG: I think there is in the

1 standard that applies to this case, Your Honor.

2 JUDGE BALDWIN: Okay. So what -- do you
3 have a position on which rules apply?

4 MR. LONG: Well, if I could just say, I
5 think the substantive difference is -- and maybe get
6 agreement on that. It seems to me that the 2017 --

7 JUDGE BALDWIN: What's your position?

8 MR. LONG: I -- I think I prefer the 2018
9 rules.

10 JUDGE BALDWIN: Okay. All right. So that
11 will be something the Court will consider and make a
12 decision about. Okay.

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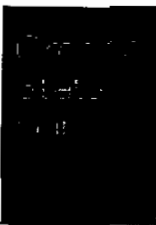
Jennifer Mount

From: Kennya Marzano <marzano.kennya@gmail.com>
Sent: Friday, June 16, 2017 9:21 PM
To: Linn Davis
Subject: Re: Lawyer complaint
Attachments: Supplemental Judgment.htm; Child Support Calculation Updtaed.pdf; Modification Motion(1).pdf; Modification Motion.pdf; Order After Hearing.pdf; Supp Judg Re Custody and PT.wps; Untitled 1.odt; Untitled 3.odt; Untitled2.odt; Untitled4.odt

Good Evening,

Sorry I have not gotten back to you.. I have been trying to compile everything I have from Megan. It is a bit chaotic, but I think that was one of the many problems.

We hired Megan back in August of 2016 with a \$3000 retainer. I knew her from my previous custody battle that I lost due to a technicality.. She was at that point working for another firm (Melinda Brown). she had since branched off onto her own, but I felt that since she helped me before she would know the case and would be able to help me finalize it quicker. I should have realized that when she didn't have us sign an initial contract that this would be nothing but trouble, but she seemed so eager and excited to work with me again.. At that time she promised that we could get everything finalized by Christmas of that year... She would continuously tell me about how she was filing paperwork and there was this delay or another.. She sent me multiple copies of paperwork that never had a signature... She would tell me things would be finished by the end of a week and then by Friday I would not be able to get a hold of her and she would put me off until the next week.. This continued for months.. It was first Winter break, then Christmas, then New Years.. At the start of 2017 is when I started to get fed up with her constant putting me off and ignoring that I started to push her to finish what she promised me.. She handed me a custody agreement that she stated was valid and I took to my ex.. Only to find out that is was not even filed and I had made a huge scene (and a fool) for nothing.. With Megan telling me it was a "technicality" that she was working on.. It only got worse from there she started to tell me she was talking to the police to help me get my kids away form my ex. but when I talked to them myself, they never had heard from her. She told me on multiple occasions that I was to sit outside of my ex house in order to wait for police to escort my children.. I had to have made at least a dozen (if not more) driving form Beaverton to Lebanon, missing work, because she kept telling me that I had to be down there to wait for the paperwork... In January of 2017 she told me to keep the children after my non custodial weekend because the paperwork went through and I could have them.. Stating she talked to Washington county police and Linn County police... I did as she said and three days later police showed up at my door to remove the kids.. They knew nothing about me having custody.. The same thing happened in March 2017, she sworn up and down that everything was secure and I had nothing to worry about.. The police came to remove my children again.. This has been very traumatic not only to my kids, but my step kids as well.. I have lost so much time with my children and spent so many hours on the road that it has strained many of my relationships and has put hardships on my kids.. I have currently hired a new lawyer and he has stated that because of everything Megan has put us through it has made my getting custody that much more difficult.. I know look like a bad parent for trying to steal my children and have an uphill battle a head of me.. He stated that he has never seen a case so confusing and mixed up.. Because Megan has stated she has put paperwork in since September and we not even in the court system until March of 2017.. None of the paperwork she gave me was ever filed.. I have only ever wanted what is best for my kids.. She has made our lives a living stressful, traumatizing hell.. My boys are only 7 and 5 and they cant understand why this is happening.. I don't want what has happened to us to happen to any one else..



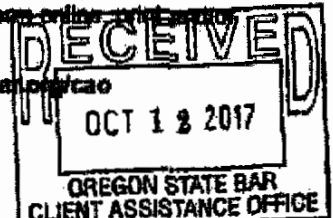
Oregon State Bar Complaint Form

Return completed form to:
Oregon State Bar
Client Assistance Office
PO Box 231935
Tigard, OR 97281-1935

OR

GENERAL INSTRUCTIONS

- Fill out this form to the best of your ability by printing or typing and return it in an envelope to:
Oregon State Bar, Client Assistance Office, P.O. Box 231935, Tigard, Oregon 97281-1935
Telephone: (503) 620-0222, Toll Free in Oregon: (800) 452-8260
- You can also complete your form online and send it via email. Simply access the pdf form at
www.osbar.org/docs/discipline/ComplaintForm.pdf. You can complete the form online, print and/or
save a copy for your record and email the completed form to CAO@osbar.org.
- Read information on the OSB Client Assistance Office, available here: www.osbar.org/cao
Valuable time can be saved if you understand how the bar functions.
- No particular form is required. This form is provided for your convenience.
- Do not use highlighters on this form. Do not write on the back of any pages.
- Please note that all materials received by the bar are considered public record. A copy of your
complaint will be provided to the attorney and a copy retained by the bar in accordance with current
OSB records retention policy. Retained records are available for public inspection through the OSB



Name and Address of COMPLAINANT

Today's Date: 10-06-2017

Name: Mr. ☐ Ms. ☒ Kaylee K. Knapp

Address: 586 Canberra Dr.

City/State/Zip: Philomath, OR 97370

Primary Telephone: (541) 824-8681

Secondary Telephone:

Name and Address of ATTORNEY

Name: Mr. ☐ Ms. ☒ Megan M. Perry

Address: 138 SW 7th Ave

City/State/Zip: Albany, OR - 97321

Primary Telephone: (541) 928-7161

Secondary Telephone:

WHAT IS YOUR COMPLAINT?

Please be as specific yet concise as possible and remember to specify what your complaint is, when it happened, where the incident occurred, why you went to the attorney and any other factors you can think of which are relevant to your complaint. Use additional sheets of paper if you wish and attach them to this form.

Was told by Megan Perry that I was divorced and had full custody last fall, 2016. In August of 2017 I discovered that the case had been dropped in December of 2015 and I was still married and didn't have full custody of my daughter. My parents supposedly had secondary custody in the case that something happened to me. This was also not true. Due to being told that I was divorced I filled taxes this year as a single person and called my daughter on their insurance.

Ex 32

December 3, 2015

Jonathan Cannon
mudbeast@live.com

Re: **Subject: LDD 1500903 1500904**
Megan Perry/Erik Moeller (Jonathan Cannon)

Dear Mr. Cannon:

Under Bar Rule of Procedure 2.5 and as resources permit, the Client Assistance Office determines the manner and extent of review required to determine whether there is sufficient evidence to support a reasonable belief that misconduct may have occurred warranting a referral to Disciplinary Counsel's Office. Misconduct means a violation of the rules of professional conduct and applicable statutes that govern lawyer conduct in Oregon.

We have reviewed all the relevant materials submitted in connection with your complaint regarding attorneys Megan Perry and Erik Moeller. We conclude that there is no sufficient basis to warrant a referral to Disciplinary Counsel for further review.

In July 2014, you hired Ms. Perry and her firm to represent you in a custody and parenting time dispute concerning your children. Mr. Moeller is Ms. Perry's law partner. At a May 29, 2015 hearing attended by Mr. Moeller on your behalf, Mr. Moeller accurately informed the court that the dispute had been settled in mediation. The court asked Mr. Moeller to submit within 30 days a proposed judgment based upon the mediated agreement.

A few days before the judgment was due, you contacted Mr. Moeller. He told you that he had not yet received a copy of the agreement from the mediator. You contacted the mediator, who told you that he had dropped off a copy of the agreement at Ms. Perry's office earlier in the month. You contacted us because you were concerned that the papers would not be timely filed. We asked Ms. Perry and Mr. Moeller to respond to your concerns.

Ms. Perry received an emailed copy of the mediated parenting plan on the date that you called inquiring about the judgment. Ms. Perry immediately drafted a proposed judgment which she sent to opposing counsel. However, opposing counsel was unavailable. Ms. Perry requested and received an extension of time to file the proposed judgment. Ms. Perry subsequently submitted a copy of the agreement, approved by you and by the opposing party. The court entered the judgment July 16, 2015.

Rule of Professional Conduct (RPC) 1.3 prohibits a lawyer from neglecting a legal matter entrusted to the lawyer. Neglect is the failure to act or the failure to act diligently over a period

Jonathan Cannon
Page 2

of time when action is required. In order to establish a violation of that rule, the evidence must show a course of neglectful conduct. *In re Magar, supra* at 321 (discussing former DR 6-101(B)). The brief delay that occurred in filing the proposed judgment is insufficient to establish a course of neglectful conduct in violation of RPC 1.3 or other rules of professional conduct.

It is unknown what exactly happened to the copy of the agreement that the mediator said he dropped off at Ms. Perry's office. Mr. Moeller may have assumed the agreement had never been delivered, when it appears to have been lost or misplaced. That mistaken assumption is insufficient to support a charge of dishonesty or misrepresentation, in violation of RPC 8.4(a)(3).

After Ms. Perry and Mr. Moeller responded to your initial concerns, you raised further concerns regarding invoices in which you were charged for the efforts of Ms. Perry and Mr. Moeller in excess of the hourly rate specified in your fee agreement. RPC 1.5(a) prohibits an attorney from charging a fee that is clearly excessive. I asked Ms. Perry to provide a response.

Ms. Perry's response, including a copy of the letter she mailed to you on October 9, is attached. She explained the mistake that produced the incorrect billing rate. Upon learning of the mistake, she promptly mailed you a letter correcting the mistake and recalculating your fees at the proper rate. We could not show under those facts that Ms. Perry or Mr. Moeller charged you clearly excessive fees.

Regarding your other concerns about the fees, the Oregon State Bar has a *voluntary* program for the arbitration of disputes about the reasonableness of attorney fees. You may find information regarding the bar's fee arbitration program by clicking the following link: <http://www.osbar.org/feearbitration>. If you need additional information, please contact Cassandra Stich at extension 334. If you were referred to your lawyer by the bar's referral service, your lawyer is contractually obligated to participate in the fee arbitration program.

Because we find no professional misconduct, we will take no further action on this matter. If you disagree with this disposition, you may have the matter reviewed by General Counsel, provided we receive your request for review in writing no later than December 24, 2015. The decision of General Counsel is final.

I hope we have been of assistance in obtaining a response to your concerns. Thank you for bringing them to our attention.


Yours,

A handwritten signature in black ink, appearing to read 'Linn D. Davis', with a stylized flourish at the end.

Linn D. Davis
Assistant General Counsel
Ext. 332

Jennifer Mount

From: OSB CAO Intake
Sent: Thursday, October 19, 2017 4:27 PM
To: gavin.1@gmail.com
Cc: OSB CAO Intake
Subject: CAO Attorney Complaint
Attachments: Final Perry Complaint.pdf


<p>10/19/2017 4:26:48 PM To: Gavin F. McNett</p> <p>Following is a record of your complaint filed with the Oregon State Bar. Please retain this for your records.</p> <p>Name and Address of COMPLAINANT</p> <p>Mr Gavin F. McNett 29 South Valley Road West Orange, NJ 07052 Primary Phone: (973) 524-2587 Secondary Phone: (973) 936-0687 Email: gavin.1@gmail.com</p> <p>Name and Address of ATTORNEY</p> <p>Ms Megan Marie Perry # 135318 Law Firm of PERRY MILLER & MOELLER 200 Ferry St SW Albany, OR 97321 Primary Phone: (541) 760-7644 Secondary Phone: (541) 928-7161</p> <p>COMPLAINT</p> <p>Dear Sir / Madam: On December 29, 2014, I filed a show-cause motion for change of custody of my minor child, Dashiell McNett (D.O.B. 9/12/2009). The motion was accompanied by an affidavit stating that my family had witnessed, and had evidence that Dashiell's mother, Marita C. Barth, was medically abusing him. The motion requested a change of custody and costs and fees. A discovery request accompanied the motion asking for standard documents, particularly medical records to substantiate the allegations of medical abuse. Attorney Megan M. Perry represented my opponent. Because of Perry's and</p>

Ms. Barth's misconduct and violations of Oregon law, this case's proceedings have been subverted for nearly three years with terrible harm inflicted on my son and his family, at crushing financial expense. Megan Perry is a danger to her opponents, her clients, and the public at large. This complaint is an attempt to represent Perry's most egregious breaches of professional conduct in this particular case, including but not limited to violations of the following Rules of Professional Conduct and Oregon criminal statutes: (Please see complaint attached; exhibits will be emailed separately to cao@osbar.org)

ATTACHMENTS

Final Perry Complaint.pdf

Oregon State Bar | 16037 SW Upper Boones Ferry Road | Tigard, Oregon 97224

Gavin McNett
29 S. Valley Road, West Orange, NJ 07052
(973) 376-3345
gavin.1@gmail.com

October 5, 2017

Oregon State Bar Client Assistance Office
16037 SW Upper Boones Ferry Road
P.O. Box 231935
Tigard, OR 97281-1935

Re: Attorney Megan M. Perry OSB #135318

Dear Sir / Madam:

On December 29, 2014, I filed a show-cause motion for change of custody of my minor child, Dashiell McNett (D.O.B. 9/12/2009). The motion was accompanied by an affidavit stating that my family had witnessed, and had evidence that Dashiell's mother, Marita C. Barth, was medically abusing him. The motion requested a change of custody and costs and fees. A discovery request accompanied the motion asking for standard documents, particularly medical records to substantiate the allegations of medical abuse.

Attorney Megan M. Perry represented my opponent. Because of Perry's and Ms. Barth's misconduct and violations of Oregon law, this case's proceedings have been subverted for *nearly three years* with terrible harm inflicted on my son and his family, at crushing financial expense.

Megan Perry is a danger to her opponents, her clients, and the public at large. This complaint is an attempt to represent Perry's most egregious breaches of professional conduct in this particular case, including but not limited to violations of the following Rules of Professional Conduct and Oregon criminal statutes:

Rule 1.2 (c)
Rule 1.7 (a)(2)
Rule 3.1
Rule 3.3 (a)(1)(3)(4)(5)(b)(d)
Rule 3.4 (a)(b)(c)(d)(e)(f)(g)
Rule 3.5 (a)(b)(d)
Rule 3.7 (a)
Rule 4.1 (a)(b)
Rule 4.3
Rule 8.3 (a)(b)
Rule 8.4 (a)(1)(2)(3)(4)(5)(6)(7)

ORS 162.065 Perjury
 ORS 162.075 False Swearing
 ORS 162.085 Unsworn Falsification
 ORS 162.235 Obstructing governmental or judicial administration
 ORS 162.285 Tampering with a witness
 ORS 162.355 Simulating legal process
 ORS 165.042 Fraudulently obtaining a signature
 ORS 165.102 Obtaining execution of documents by deception
 ORS 165.013 Forgery
 ORS 165.022 Possession of a forged instrument
 ORS 166.065 Harassment

The following sections are arranged by subject, and are not ranked in order of importance. Several necessarily overlap with the complaint, taken up by the Disciplinary Board on March 31st, regarding my former attorney in this case, Jim Van Ness. That complaint is mostly concerned with Van Ness's mishandling of client funds and inability to account for approximately \$20,000 in fees paid to him.

Recent court filings and testimony establish that Megan Perry improperly paid at least \$5,787.75 to Van Ness from March 2016, and strongly suggest that Van Ness was coerced by Perry to stop the discovery process and fail to argue a case for custody.

Most of the below sections concern misconduct conducted solely by and through Megan Perry. We omitted several topics (e.g. false swearing) for the sake of brevity. Additionally, we know of forged court orders in Linn and Benton County that have not yet been reported to the Bar.

Tampering with Witnesses, Obstructing Depositions, Blocking Access to Records

On March 23, 2015, Mr. Van Ness wrote a letter to Perry demanding that she and Ms. Barth "cease and desist all activities that interfere with Mr. McNett's rights under ORS 107.154 (**Exhibit A**). They not only ignored the demand, but shortly after receiving the letter, Perry began to engage in witness tampering as defined by ORS 162.285.

On April 1, 2015, Perry provided the manager of my son's daycare provider, whom Perry did not represent, with a "legal opinion" advising the manager not to cooperate in providing me or my attorney with a copy of my son's daycare records (**Exhibit B**). When we served them with a subpoena, they refused to communicate with us about it, and coordinated with Perry to avoid a deposition.

In September of 2015, Ms. Barth's parents, Merritt and Jenny Barth, appeared for a scheduled deposition after failing to respond to two previous subpoenas and failing to appear at the two previous scheduled depositions. Jenny Barth was asked under oath why they had not complied with the subpoenas,

and stated, "Megan Perry told me not to." Asked if Perry was her attorney, Jenny Barth answered "no." (Exhibit C).

On the eve of Marita Barth's scheduled deposition, Perry emailed a letter to Mr. Van Ness claiming a scheduling conflict and stating that Ms. Barth would not appear. Perry gave no further information, and did not explain her failure to timely inform Mr. Van Ness of the cancellation.

In his hearing memorandum dated December 24, 2015, Mr. Van Ness stated that Perry had "a long history of ignoring [his] emails, letters or telephone calls," and that when Perry canceled the deposition at the last moment, Van Ness "checked the court calendars for the mid-valley and could find nothing scheduled for Perry," stating, "It was simply more obstruction." (Exhibit D).

Perry's practice of interfering with the opponent's access to witnesses and records was at its most aggressive and disturbing very early in the case. Just after the initial show-cause order was served, I sent a formal letter to Corvallis Clinic requesting my child's medical records there. My family had evidence that Ms. Barth was taking him there for unnecessary treatments under a different insurance number, but we had not yet raised the matter in the case or to Mr. Van Ness.

Corvallis Clinic did not respond to the records request. Two weeks after sending it, I called to follow up and was connected with an administrator who stated, "I've spoken with both attorneys, and I have no more to say to you." I asked who exactly she had spoken to. She said, "Both of them. You shouldn't be trying to contact us." She hung up.

Mr. Van Ness did not know about Corvallis Clinic, and confirmed that he had not called there. We later served the administrator at Corvallis Clinic with a subpoena, and found that she and Perry had already been communicating about the case. As with the other witnesses Perry had tampered with, they refused to speak to us while coordinating with Perry to withhold evidence. It is not yet clear who called Corvallis Clinic in concert with Perry pretending to be my attorney.

Additionally, Perry used Facebook to contact one of my trial witnesses (Exhibit E).

Withholding of Discovery

Perry and her client were given extensive opportunities to comply with the initial discovery request filed with the complaint. Rather than demand that her client simply *comply* with these escalating orders, Perry instead used these generous and *unusual* opportunities to delay the case while she made inroads to manipulate Mr. Van Ness and [now "retiring"] Judge Sally Avera.

She eventually succeeded, appearing at trial with discovery still incomplete, while under contempt, and carrying at least \$30,000 in unpaid remedial fines [please see the section on *ex parte* communication regarding Perry's avoidance of penalties, including motions *in limine*, at trial and afterwards].

Following are occasions during those 21 months in which Perry failed to turn over discovery. Not included are two scheduled conferences on discovery that Perry failed to show up for, each time claiming a sudden "medical" excuse.

- Initial discovery request served 1/16/15 (**Exhibit F**)
- Second notice of initial discovery request served 4/3/2015
- Order to Compel Production signed 5/8/2015
- Third notice of initial discovery request served 11/27/2015
- Hearing held 12/29/2015, finding of contempt for discovery violations
- Order of contempt for remedial discovery sanctions of \$100/day, signed 2/12/2016 (**Exhibit G**)
- Attorney letter demanding compliance with Court orders, sent 3/7/2016
- Show-cause order to strike pleadings for obstruction, including failure to turn over discovery, signed 5/6/2016
- Discovery hearing held 9/12/2016
- Second request for production served 9/13/2016
- Discovery hearing held 9/19/2016
- Status check re: discovery held 10/4/2016
- Motion to compel production filed 10/21/2016
- Trial held 11/8-10/2016

At no point during the first 21 months of the case did Perry file an objection to the scope, content, or form of the discovery request, nor did she ever request discovery from me. Perry willfully disobeyed Court orders to turn over discovery as a case strategy. As a case strategy, Perry withheld evidence by deception that was vital to my case.

During this 21-month period, Perry repeatedly promised to turn over materials by a certain date, then made no effort to do so; repeatedly made false statements to the Court as to what materials she had turned over; repeatedly sent items to Mr. Van Ness that were not requested, provided false manifests, and/or claimed that unsent discovery items had "fallen out of the box"; repeatedly stated to Mr. Van Ness and the Court that Mr. Van Ness had failed to provide a list of discovery items at her request; falsely claimed several

times to the Court that she had "already completed" discovery, i.e. that Mr. Van Ness was in error or lying; and failed several times to attend scheduled conferences, giving no notice.

In September of 2016, 19 months after our first request for discovery was served, Perry raised her first (and only) objections to the discovery request of January 2015, demanding that we accept a redacted paper copy of Ms. Barth's Facebook postings instead of downloading a true and correct copy from Facebook -- as she had been ordered to provide over a year earlier. As a pretense, Perry alleged without substantiation or evidence that I had a "history of harassing people." Perry then failed to submit a protective order, and appeared at trial without turning over any further electronic discovery.

At trial, Perry claimed to the Court that she had given my son's medical records (that she had been withholding) to the parenting coordinator, while simultaneously claiming they had been in a folder of papers given to my former attorney. Perry repeatedly dangled one of the withheld medical records in the air while my fiancée was testifying. Perry went to extreme lengths to withhold this particular document from me even at trial.

To be clear: Perry stated alternately that she did not have to show me the record she was waving in the courtroom because I already had it or because she gave someone a copy to give to me, and it was therefore no longer Perry's problem. Perry used the withheld record to falsely portray my son as being of a healthy and average weight, when in fact my child is severely underweight (Exhibit H).

Perry's two simultaneous claims were: 1) She gave all medical records to my attorney, Adrienne Garcia, at an unrecorded and un-memorialized conference on October 4, 2016, also attended by Judge Avera; and 2) that all medical records were sent, either by Perry or by the medical providers, to parenting coordinator Tahra Sinks, for Sinks to provide them to me. Both were refuted as false in a pair of letters sent by Ms. Garcia and Ms. Sinks to Judge Avera (Exhibit I). It is unclear, as shown below, whether the Judge is aware of the letters.

Also at trial, Ms. Barth testified under oath that Perry had advised her client to willfully disobey court orders by withholding discovery. (Court Audio).

Non-Existent Subpoenas

At the hearings of May 5, 2015, July 27, 2015, August 19, 2015, and December 29, 2015, Perry stated on the record that she had sent subpoenas to "all area health care providers" in an effort to prove that there were no medical records of my son's that Ms. Barth was concealing (Court Audio). Perry failed to

turn over copies of these subpoenas or their proofs of service, as required by law, despite numerous requests on the record by my attorneys and myself.

In October of 2016, Perry made the outrageous claim that the subpoenas and proofs of service were work product protected by attorney-client privilege (**Exhibit J**), yet would not permit the inspection of a privilege log. At trial, Judge Avera permitted Perry to claim attorney-client privilege, and provided original testimony regarding the subpoenas, stating, "the subpoenas are not about [my son]." There is no record of the subpoenas aside from Perry's repeated claims to have served subpoenas. (See the section below on *ex parte* communication.)

It is clear that Perry never actually served any subpoenas, as she went to great lengths to thwart every attempt to verify them or learn who she had allegedly served with them.

False Criminal Complaints, Malicious False Reports, Attempts to Have Me Arrested

At the beginning of the case, after Mr. Van Ness had granted Perry and Barth two generous extensions of time to respond to the initial pleading (and just two days after Mr. Van Ness had filed a notice for dismissal due to failure to respond) Perry and Barth filed a response that made no reference to the original pleading, and filed two forged court orders with it, a temporary stalking protective order and a show-cause status quo order (**Exhibit K**). The orders are procedurally impossible in more ways than are listed here, and further information is certainly available. They cite a hearing that the court says never happened, and cite 'other evidence,' including a mandatory affidavit from Barth, that is not in the record. The stalking order was back-dated from 2015 to 2014, neither order was entered by the Judge, and neither order caused any statutory response by the court (e.g. mandatory service of the stalking order as per ORS 30.866, mandatory scheduling of a hearing by both orders, etc). The signatures do not match Judge Norman Hill's authentic signature. The orders, with accompanying motions, were manually filed and initialed by trial court administrator Heidi Bittick, apparently as a favor. We are aware of cases in other counties in which Perry has used a court official to do precisely the same "favor."

Heidi Bittick who would clearly be in trouble if the forgeries were discovered, has interfered with every effort, over 2 ½ years, to show the orders to Judge Hill, or to gain any information on where the orders came from and how they were filed. Judge Hill still has not personally seen or verified them. Bittick has deflected every official inquiry by stating the orders are authentic and the matter is "already resolved," and referring further communications to the Judge's assistant. The assistant concurs and "verifies" the orders on the Judge's behalf.

I filed a bar complaint about this matter early in the case, and upon learning of the complaint, Perry first called the Client Assistance Office and talked them out of investigating (without filing a written response), then coordinated with Bittick to block every effort to verify the orders. I am certainly happy to submit an updated complaint on the matter.

The Temporary Stalking Protective Order was vacated in May 2015 after an extraordinary four-hour hearing before the assigned Judge, the Hon. Sally L. Avera, at which Perry showed no evidence *and made no relevant allegations*, yet put on a prejudicial *ad hominem* performance that tainted the case going forward.

On March 6, 2015, the same day the temporary stalking order was filed, Perry also filed a strange request for relief “by way of counterclaim” to my initial pleading. In it, Perry demanded that I undergo a “psychiatric evaluation of a type and duration” and be confined to a facility “to be determined by the Court,” before being allowed contact with my son, whom Ms. Barth had been secreting for four years (**Exhibit L**). The counterclaim set forth no ultimate facts *or even any allegations*. It was a frivolous and malicious effort to use my disability to create unfounded prejudice against me.

I am formally diagnosed with Post Traumatic Stress Disorder caused by spousal abuse and witnessing medical child abuse by Marita Barth. Ms. Barth has family members in law enforcement and others who work at the Oregon State Hospital, which makes “confinement to a facility to be determined by the Court” a threatening prospect. There is no excuse for a licensed attorney using an opponent’s disability as an opportunity for further harm and abuse.

Perry also seems to misunderstand PTSD, as she has tried habitually throughout the case to provoke me into losing my composure, apparently imagining that she can get me to seem crazy or threatening. It does not actually work like that -- I have the combat stress type of PTSD, and get calmer and more composed when provoked. One gets the impression that Megan Perry has a great deal of life experience invested in the art of tactically provoking people when an authority figure isn’t looking, then when they turn around, acting as if a crazy person was suddenly attacking her.

On December 29, 2015, Perry assisted Ms. Barth in lodging a fraudulent complaint in the Polk County Sheriff’s office after my first in-court appearance in the case. At the end of the hearing, Ms. Perry asked the Judge to read aloud the statute on harassment, ORS 166.065 (**Court Audio**) and tell them what to do if I were to harass Ms. Barth while I was in Oregon. The Judge read the statute and stated that they could go to the Sheriff’s office and report it. Immediately after the hearing, Perry and Ms. Barth went downstairs to the Sheriff’s office, stating that “the Judge told them” to come and make a report and complaining they “had no idea [I] would be appearing in person at the hearing.” The Sheriff’s deputy who

took the complaint was convinced that the Judge sent Ms. Barth to the Sheriff's office due to a concern for Barth's safety. I know this because my fiancée and father in law noticed them going into the Sheriff's Office and followed them inside. They defused the situation by stating what Perry had done. Perry then requested a police escort for herself and Barth to drive them to their cars.

In April 2016, Perry falsely accused my fiancée and me to the parenting coordinator, Tahra Sinks, of attempting to abscond with my son by (bizarrely) trying to "volunteer" at his school. On April 14, my fiancée and I stopped at Oakdale Heights Elementary School in Dallas to update our home address with the school (we had recently moved) and politely introduce ourselves. As a precaution against persistent false allegations made by Perry and Ms. Barth, precisely like these, my fiancée recorded the entire exchange with her camera phone. It can be viewed here:

<https://www.youtube.com/watch?v=szBQ81urU38&feature=youtu.be>

As you may hear, the desk staff and principal who spoke with us had been conditioned *extensively* by Perry and Ms. Barth to view us as dangerous individuals who were capable of harm or abduction. We were treated that way, yet remained civil, updated our contact information and made it clear to the principal that there was a pending case for a change of custody, and exited without incident.

Within two hours, Perry had created a panic of misinformation at Ms. Sink's office. Ms. Sinks refused to view the above video, but was eventually persuaded by a letter we requested from the principal that we were not there attempting to kidnap my son. This non-incident caused thousands of dollars in fees to Ms. Sinks and Mr. Van Ness.

The following month, our family was trying to schedule a cross-country trip to Oregon for our first multi-day visit with my son, which was to be wholly outside of Ms. Sink's office.

Perry had delayed for nearly a month in submitting a temporary parenting order for the trip to Mr. Van Ness. We had told Mr. Van Ness that we needed to review the order before submission, to ensure that there were no "traps" or unusual conditions in it (**Exhibit M**). There were. The order appeared in the docket already signed by the Judge, containing restrictions that Perry had simply invented -- including the inexplicable addition in a case alleging child abuse barring us from having my son be seen by any medical personnel. The restriction prevented us not only from obtaining evidence of abuse, but also from acting upon any existing evidence of abuse we witnessed. This became important when we saw my son's condition.

Due to Perry's history of making frivolous allegations and interfering with our communications with witnesses and agencies, my family had told Ms. Sinks that we would not travel to Oregon without a signed court order, and if we did not have a signed order two weeks before a planned trip, we would be

unable to schedule the trip or afford the last-minute flights, hotels, and car rentals we would have to book. By the time we finally received the order with Perry's invented restrictions, we had already been forced to reschedule. Our changing the plan sent Perry into high activity, and she filed for Judicial Review of Ms. Sinks's decision to allow us to change the dates. From this trip on, Perry constantly tried to make us travel to Oregon on schedules that she set without our input or consent and take my son on multi-day trips without a court order.

The most elaborate attempt to have me arrested and jailed began on March 4, 2016, when Perry submitted a Motion for Order to Appear and Show Cause Re: Contempt, with exhibits, an affidavit of counsel, and a sample order, alleging that I had willingly failed to pay child support. Perry did not serve the motion, affidavit of counsel, or sample order -- attached to the sample order is a certificate of service stating, "service is not required under UTCR 5.100 because this Order to Show Cause is submitted ex parte as allowed by statute or rule" (Exhibit N). The documents were deceptively filed into the docket under an incorrect name, bundled with several other motions (to set aside sanctions and contempt against her client) and labeled as a supporting affidavit.

A show-cause order appeared in late May, setting a contempt hearing for an already-scheduled court date on June 6.

Despite the order, there was no contempt hearing on June 6. There was never any hearing for contempt. The underlying issue of child support was raised once during the normal course of trial, and Judge Avera continued it for Perry to submit documentation and evidence of her claims. She did not submit any, and the issue was not raised again on the record.

Perry later submitted an order for contempt anyway, citing a motion that did not exist and findings that the Court had not made. Despite my objections and request to review the evidence, Judge Avera signed the order on August 7, 2017, "Dated this 7th day of August, 2017, nunc pro tunc May 5, 2017." i.e. improperly backdated to three months before it was entered (Exhibit O). Despite the fact that child support was already being enforced by Massachusetts, the Judge also declined to either find for jurisdiction or vacate the order.

A contempt hearing had been pre-scheduled on March 5, 2017 for September 11, 2017, to see if I had "caught up" on child support payments through the Oregon DOJ's Child Support Division. In September, in advance of the hearing, I contacted the Child Support Division and found that Perry had not submitted any documents there. After going to extreme lengths to set up contempt for non-payment, and insisting that payment be made through Oregon DOJ, Perry had made it impossible for the payment to be processed or applied to the claimed debt.

Perry went to extreme lengths to engineer payments through Oregon DOJ that cannot be processed or recorded, going so far in other cases as to send a forged court judgment to the Child Support Division. On one level, the entire contempt proceeding is just another threatening situation with Perry trying to set me up to be arrested and jailed, as she also did in other cases. Seen in light of Perry's other activities, where she used deception to steal money from clients and other victims, the fact that she keeps mysteriously arranging for money to be sent to DOJ off the books strongly suggests that the money would somehow end up with Perry.

Striking of Pleadings: Bribery and/or Coercion, Related Misconduct

On May 6, 2016, Mr. Van Ness filed a motion to Show Cause to strike Perry's pleadings, arguing that it was the only recourse given her refusal, over a period of 21 months (and despite an Order to Compel, a contempt ruling, and unpaid remedial fines of \$100 per day) to turn over discovery. Judge Avera signed the Order to Show Cause the same day, giving Perry ten days to respond (**Exhibit P**). Perry never responded, defaulting on an order to strike their pleadings.

Mr. Van Ness delayed in filing for a default. Then, at a previously scheduled hearing on June 6, 2016, Van Ness, Perry, and Ms. Sinks attended an unscheduled meeting in chambers with Judge Avera [similar to the "conference" in the Chapman complaint]. When they emerged, Judge Avera inexplicably stated that the parties had agreed to declare discovery "complete," that "all motions" were to be put into indefinite abeyance, and that my case, which had been one step away from a default win ten minutes earlier, would instead go to a settlement conference (for parenting time – Van Ness was no longer arguing for custody). Moreover, Judge Avera would serve as the settlement judge (**Court Audio**). The Opponent's settlement offer was to literally give us nothing – the parties were expected to "stipulate" to the status quo, as it existed just before the Opponent defaulted and we won the case.

While it is customary for the Judge and the attorneys to meet in chambers prior to a settlement conference, this was the first we had ever heard about a settlement – Van Ness had been retained, and had participated in 18 months of attorney/client conferences, with the specific objective of securing basic discovery materials that the opponent did not want to turn over, and preparing for a contested trial in a custody case featuring pre-existing evidence and witness testimony of medical child abuse.

In light of the other complaints filed, Megan Perry evidently has an M.O. of making clandestine agreements with the opposing attorney, typically determining that one of the two clients will win the case in a rout, while the other client is held falsely in contempt and/or falsely arrested by the police, stripped of their assets, and facing a Judge who has been thoroughly prejudiced against them. (Notably, those of Perry's

clients who *won* their cases are not represented in the current sample – a litigant would not usually file a complaint with the Client Assistance Office reporting that their attorney used unfair tactics to successfully gain their objectives.)

In this case, Perry very clearly made an agreement with Van Ness between May 6, 2016 -- when Van Ness filed the Motion to Show Cause to strike the Opponent's pleadings, and June 6, 2016 -- when Van Ness needed only to file for a default to win the case, and instead engineered a victory for Perry, via an off-the-record meeting with Perry and the Judge. We did not immediately understand what had happened to the case, when on June 6, 2016, Judge Avera suddenly began to rule exclusively against us and for the Opponent. The Judge made an instant 180-degree reversal of discretion, accepting statements by Perry as *prima facie* true without any showing of evidence, and despite any citation of law or fact on the record.

I had to fire Van Ness in July 2016 when he refused to take any action on my behalf against the Opponent. Van Ness immediately cut off all contact and refused to turn over my file.

Surely enough, we discovered in April 2017 that Van Ness had accepted and subsequently mishandled a check for \$5,787.75 that Perry was ordered to pay to me, as per the Limited Judgment re: sanctions of February 12, 2016.

Perry wrote the check to Mr. Van Ness personally, from a non-client account of her own. That is, Perry commingled trust and business funds, and wrote a \$5,787.75 check that Van Ness could only deposit into his personal bank account.

At a hearing on September 11, 2017, Perry described the transaction:

Ms. Perry: "I asked Mr. Van Ness who he wanted me to make it out to, I transferred it to him, he wrote the satisfaction of judgment."

Mr. McNett: "Well, as for who wrote the satisfaction of judgment, I am looking at it right now and it says it was written by the law office of Perry and Moeller, PC."

Ms. Perry: "I'm sorry, if I, If I, just to clarify, I did wri--, I wrote the satisfaction of judgment, I refused to give him the check until he signed the satisfaction of judgment. So that's that's what -- I wrote it and he signed it."

In other words, Perry played the trick on Van Ness that is also documented in the Cooper complaint. Perry made a victim sign a Satisfaction of Judgment before she would turn over their money in her custody, then used the Satisfaction of Judgment to cheat them out of the money. In Cooper's case, Perry had her sign a full Satisfaction of Judgment for the sum of \$5,000 on the pretense that it represented a "first installment" of the \$16,000 Perry was holding in trust. In Van Ness's case, Perry used my own money to bribe my attorney.

I do not believe that Mr. Van Ness willingly accepted a bribe from Ms. Perry. I believe he did so unwillingly – and was then subject to extortion as Perry threatened to turn him in for commingling funds.

After the hearing of June 6, 2016, at which he threw our case, Mr. Van Ness told my family that Judge Avera had abeyed all our motions until trial over his protests, and that he did not understand Judge Avera's reasoning in doing so. At trial, Judge Avera stated on the record that Van Ness asked her to abey the motions. (Court Audio).

Moreover, it is clear from the record as well as from Judge Avera's behavior that Van Ness coordinated with Perry at the June 6 meeting in chambers to disparage me and my family's legal efforts, denying us the fair hearing we had been entitled to, and waiting for, since January 2015.

Among the harm done to my family is the ruinous loss of \$90,000 in fees and costs for attorneys, for a parenting coordinator hopelessly prejudiced by the June 6 meeting in Judge Avera's chambers, and for the many other expenses we paid in full in order to receive a Judgment from the Court, in absence of fundamental due process, that was created solely by Megan Perry, with all of the Court's findings of fact and law also created solely by Megan Perry (**Exhibit Q**). Judge Avera signed this and an entire year's worth of neglected, unentered court orders also created solely by Perry, without correction or alteration, ignoring my appeals to reason, to black-letter statutes, and to the facts clearly on the record, in August 2017.

The above is not meant to be a complete list of Megan Perry's known professional misconduct in Polk County case 13P2615. The items above are given in no particular order. Ms. Perry's malicious acts will haunt the State of Oregon until justice reaches her victims.

Very truly yours,



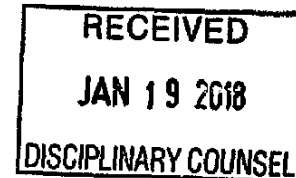
Gavin F. McNett

Holland & Knight

111 S.W. Fifth Avenue | 2300 U.S. Bancorp Tower | Portland, OR 97204 | T 503.243.2300 | F 503.241.8014
Holland & Knight LLP | www.hklaw.com

Allison Martin Rhodes
(503) 243-5887
allison.martinrhodes@hklaw.com

Nellie Q. Barnard
(503) 243-5882
Nellie.Barnard@hklaw.com



January 19, 2018

Via E-mail (scournoyer@osbar.org)

Ms. Susan Cournoyer
Oregon State Bar
16037 SW Upper Boones Ferry Road
PO Box 231935
Tigard, OR 97281

Re: Megan Perry (Gavin F. McNett)

Dear Ms. Cournoyer:

This letter is in response to Dawn Evans' November 30, 2017 letter to this office regarding Gavin F. McNett's complaint against Megan Perry, his ex-wife's lawyer. Thank you for extending the time to respond to January 19, 2018.

The November 30, 2017 letter contains a series of questions. Those questions are set out below with Ms. Perry's corresponding response. Please note that Ms. Perry's responses are limited in this case by her obligation to Ms. Barth under RPC 1.6 and the attorney-client privilege held by Ms. Barth. Ms. Perry will not disclose or allow to be disclosed in this public setting any information that she believes will prejudice her client's legal matter.

1. *With regard to Exhibit B to the McNett letter, please explain upon what legal basis and in what capacity Ms. Perry was providing her opinion that Caroline VanOrden was fulfilling her "legal requirements" by submitting records to Mr. Van Ness.*

Ms. Perry's capacity was as counsel to her client whose legal interest was to prevent disruption in the child care relationship. Ms. VanOrden and others at the daycare, including the Executive Director, had been contacted on numerous occasions through multiple channels by Mr. McNett and were understandably overwhelmed by the intensity of his conduct. Ms. Perry was suggesting that the daycare provider confer with Mr. Van Ness, Mr. McNett's attorney.

Anchorage | Atlanta | Austin | Boston | Charlotte | Chicago | Dallas | Denver | Fort Lauderdale | Houston | Jacksonville
Lakeland | Los Angeles | Miami | New York | Orlando | Portland | San Francisco | Stamford | Tallahassee | Tampa | Tysons
Washington, D.C. | West Palm Beach

Bogotá | London | Mexico City

Ms. Susan Courmoyer
January 19, 2018
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2. *Did Ms. Perry advise either Merritt Barth or Jenny Barth at any time regarding whether either of them should or should not appear for deposition and, if so, please explain in what capacity Ms. Perry gave such advice.*

Ms. Perry reports that she does not presently recall giving advice to either Merritt or Jenny Barth regarding their appearance at depositions.

3. *What contact did Ms. Perry have, if any, with Corvallis Clinic on the subject of requests made by Mr. McNett for records pertaining to Dashiell Merritt McNett during 2015? If any such contacts took place, please provide copies of any communications and, for any contacts that were telephonic, please provide dates of any conversations, identify the parties to the telephone conversation, and provide a summary of the conversation.*

As Ms. Perry presently recalls, she called the Corvallis Clinic to confirm whether Dashiell Merritt McNett was ever seen at that clinic as a patient. Ms. Perry does not presently recall the precise timing of that contact. Mr. McNett's attorney served a subpoena for production of business records on the Corvallis Clinic in December 2015. The Corvallis Clinic, represented by Troy Bundy, moved to quash that subpoena, and Mr. McNett does not appear to have opposed that motion. See Exhibit 1. Respectfully, this is a discovery issue in the litigation, and Mr. McNett should not be permitted to use the Bar process to circumvent the court's role in ruling on that motion to quash.

4. *Please explain the circumstances that resulted in a failure by Barth to comply with the May 8, 2015, order entered in the Barth suit compelling production of documents within 10 business days. If in fact Barth did timely comply with that order, please describe those circumstances.*

Ms. Perry produced documents to Mr. McNett's various counsel on multiple occasions on behalf of Ms. Barth. Attached as Exhibit 2 is the court's August 2017 order denying Mr. McNett's Second Request for Production and Motion to Enforce Production. In that Order, Judge Avera notes in paragraph one that documents were exchanged by counsel in the presence of the court.

5. *Please explain the circumstances that resulted in the entry of an order on February 12, 2016, in the Barth suit ordering Barth to produce various categories of records within 14 days from the date of the order.*

Mr. McNett's attorney requested documents from Ms. Barth in the normal course. Ms. Barth did not produce the documents. Mr. McNett's attorney filed motions to compel followed by motions for contempt in 2015, but the court did not enter a finding of contempt. Ms. Barth provided documents on July 27, 2015. The court later found the production to be incomplete and signed the order of contempt on February 12, 2016. Ms. Barth again provided documents on March 7, 2016.

6. *Please explain the circumstances that resulted in the entry of an order on February 12, 2016, in the Barth suit awarding sanctions against Barth in the amount of \$5,787.75 ("sanctions order"). Please explain how and when payment of that sanctions award was made, if it was.*

Ms. Susan Cournoyer
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If payment was made, was it paid out of funds received from Barth or did Ms. Perry make payment out of her own funds? If payment was made out of Ms. Perry's own funds, please explain why.

Mr. Van Ness described the motivation for seeking sanctions in the Motion for Sanctions attached as Exhibit 3. Ms. Perry paid the sanctions (attorney fees and costs) to Mr. McNett's counsel and was later reimbursed for those funds by her client. Mr. Van Ness signed the satisfaction on March 11, 2016 attached as Exhibit 4. Ms. Perry has no information about how the funds were handled as between Mr. Van Ness and his client.

7. *On approximately March 4, 2016, Ms. Perry filed in the Barth suit on behalf of Barth Petitioner's Motion to Set Aside Order Re: Sanctions, Petitioner's Motion to Set Aside Limited Judgment Re: Sanctions, and Petitioner's Motion to Set Aside Order Re: Contempt. In a Memorandum of Law filed in support of those motions filed in the Barth suit, Ms. Perry contended that Barth was not provided copies of the proposed orders and that the orders were entered less than three days later. Ms. Perry noted that Barth had not consented to be served via email. The Memorandum of Law was silent as to whether Ms. Perry received the proposed orders via email. The Memorandum of Law also asserted that the opposing party did not comply with UTCR 5.100. Considering that calculating whether an order had been entered earlier than three days after its submission would require knowledge of when it was submitted, please describe how and when Ms. Perry first learned of the fact that the proposed orders had been presented for entry. If copies of the proposed orders were received electronically by Ms. Perry, please indicate the date upon which they were received and please explain why the Memorandum of Law failed to inform that the documents had in fact been received electronically in advance of the orders being entered, if they were. Please provide any additional explanation deemed appropriate regarding the contentions made in the Memorandum of Law.*

Ms. Perry reports that she does not presently recall receiving the proposed orders prior to their entry on the docket. Ms. Perry reports that she did not intentionally misrepresent any information relayed in the Memorandum of Law described above.


8. *Please respond to Mr. McNett's assertion that on multiple occasions in open court in the Barth suit Ms. Perry stated that she had sent subpoenas to "all area health care providers" in an effort to prove that there were no medical records pertaining to the son that were being concealed by Barth and that Ms. Perry thereafter refused to produce copies of the subpoenas, asserting that they were work product. Does Mr. McNett accurately characterize both what Ms. Perry asserted and her intention in making the assertion? Please explain, whether the answer is yes or no. And, if Ms. Perry did in fact send subpoenas to various health care providers, please explain on what basis the subpoenas were privileged as work product, once they had been sent.*

Ms. Susan Cournoyer
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Ms. Perry reports that she did not subpoena medical records and does not presently recall so stating in court on the record. As Ms. Perry recalls, it was Mr. McNett's attorney who subpoenaed medical records. Rather than issue subpoenas, Ms. Barth simply collected pertinent medical records from pertinent providers to comply with the discovery requests.

Sincerely yours,

HOLLAND & KNIGHT LLP



Allison Martin Rhodes
Nellie Q. Barnard

Enclosures

cc: Megan Perry (via email)

Cassandra Dyke

From: Robert C. McCann
Sent: Thursday, February 15, 2018 3:25 PM
To: Mark Johnson Roberts
Cc: andy@danielsivers.com; Suzette Boardman
Subject: Witnesses regarding unethical conduct of Megan Perry and Eric Moeller

Good Afternoon Mark,

I am writing to you with concerns regarding the status of the bars investigation into the unethical conduct of Ms. Megan Perry and her husband/partner, Eric Moeller. I have copied Mr. Andy Ivers, another attorney here in Albany because he and I have great concerns regarding what we anticipate is a "lie and deny" effort of Ms. Perry and Mr. Moeller to minimize their unethical behavior.

Andy currently employs Mr. Dan Miller, an attorney formerly associated with Perry and Moeller, and the former secretary of Ms. Perry. They have notebooks of information as well as eye witness accounts of the unethical conduct of Ms. Perry and Mr. Moeller and the efforts they have made to hide their behavior. Much of the documentation they have was copied from documents which were later destroyed by Perry and Moeller. Both Mr. Miller and Ms. Perry's former secretary have spoken with representatives of the PLF but no one has expressed an interest in speaking to them regarding the ethics side of this. The information these two people possess are voluminous and damning. Yet no one has even tried to speak to them. Who do I need to contact to insure the information is obtained by the bars investigation?

Frankly, Ms. Perry and Mr. Moeller have engaged in some of the most reprehensible and unethical conduct I have heard of. From the local bar's perspective nothing is coming of it. I hope the perception of the local attorneys is not correct.

Respectfully,

Bob McCann

Sent from [Mail](#) for Windows 10